(September 25, 2002 Draft)

California Regional Water Quality Control Board

Santa Ana Region

3737 Main Street, Suite 500

Riverside, CA 92501- 3348

FACT SHEET

ITEM: October 25, 2002 (Board Meeting Date)

SUBJECT: **Waste Discharge Requirements for the Riverside County Flood Control and Water Conservation District, the County of Riverside, and the Incorporated Cities of Riverside County within the Santa Ana Region, Urban Runoff Management Program, Order No. R8-2002-0011 (NPDES No. CAS 618033)**

I. INTRODUCTION

A. PROJECT

The attached pages contain information concerning an application for renewal of waste discharge requirements and a National Pollutant Discharge Elimination System (NPDES) permit, Order No. R8-2002-0011, NPDES No. CAS 618033, which prescribes waste discharge requirements for Urban Runoff from the cities and the unincorporated areas in Riverside County within the jurisdiction of the Regional Board. Specifically, Order No. R8-2002-0011 regulates discharges of Urban Runoff from the "Permit Area" as defined in the Order and shown in Appendix 1.

Urban Runoff includes those discharges from residential, commercial, industrial, and construction areas within the Permit Area and excludes discharges from feedlots, dairies, farms, and open space. Urban Runoff discharges consist of storm water and non-storm water surface runoff from drainage sub-areas with various, often mixed, land uses within all the hydrologic drainage areas that discharge into the Waters of the U. S. If appropriate pollution control measures are not implemented, Urban Runoff may contain pathogens (bacteria, protozoa, viruses), sediment, trash, fertilizers (nutrients, mostly nitrogen and phosphorus compounds), oxygen-demanding substances (decaying matter), pesticides (DDT, Chlordane, Diazinon, Chlorpyrifos), heavy metals (cadmium, chromium, copper, lead, zinc), and petroleum products (oil & grease, PAHs, petroleum hydrocarbons). If not properly managed and controlled, urbanization can change the stream hydrology and increase pollutant loading to receiving waters. As a watershed undergoes urbanization, pervious surface area decreases, runoff volume and velocity increases, riparian habitats and wetland habitats decrease, the frequency and severity of flooding increase, and pollutant loading increases. Most of these impacts occur due to human activities that occur during and/or after urbanization. The pollutants and hydrologic changes can cause declines in aquatic resources, cause toxicity to marine organisms, and impact human health and the environment. Based on the procedures in Section D of the RCFC&WCD Hydrology Manual, it is feasible that, in semi-arid regions, development may result in the creation of a net increase in absorption.

On August 30, 2000, the Riverside County Flood Control and Water Conservation District (hereinafter referred to as "RCFC&WCD" or "Principal Permittee" as context

indicates), in cooperation with the County of Riverside, (the “County”) and the incorporated cities of Beaumont, Calimesa, Canyon Lake, Corona, Hemet, Lake Elsinore, Moreno Valley, Murrieta, Norco, Perris, Riverside, and San Jacinto (hereinafter with the County, collectively referred to as the “Co-Permittees” and collectively with the Principal Permitee, the "Permittees"), jointly submitted a National Pollutant Discharge Elimination System (NPDES) Application No. CAS 618033, a Report of Waste Discharge (the “ROWD”), to renew the MS4 NPDES permit for the Santa Ana River Watershed (the “Region”) within Riverside County (the “Order”) NPDES permit dealing with urban runoff (hereinafter “Urban Runoff” as defined and qualified in Findings 13 and 14) in the “Permit Area” as shown in Appendix 1.

B. PROJECT AREA

The area shown on Appendix 1 contains 1,293 square miles (or 17.7% of the 7,300 square miles within Riverside County) and includes 11 of the 24 municipalities within Riverside County. The California Department of Finance estimates that as of January 1, 2002, the population of Riverside County is 1,644,341 of which 759,877 persons reside within the 11 municipalities and an additional 338,630 persons reside in the unincorporated area that is within the area shown on Appendix 1 (or a total of 1,098,507 persons or 66.8% of Riverside County’s population). Five of the municipalities (Beaumont, Calimesa, Canyon Lake, Norco, and San Jacinto) have populations of 25,000 or less; three municipalities (Hemet, Lake Elsinore, and Perris) have populations between 25,001 and 62,000, Corona has a population of 133,966, Moreno Valley’s population is 146,435 and Riverside has 269,402 residents. [Population figures for the city of Murrieta have been omitted because only 375 acres (2%) of the City's Land Area is within the area shown on Appendix 1. (See Finding No. 2.)] Of the total territory within the area shown on Appendix 1, 346.7 square miles are within the 11 incorporated areas and 944.6 square miles are unincorporated. General land uses within the 1,293.3 square miles comprising the area shown on Appendix 1 are identified, based on Riverside County Assessor’s Roll for Fiscal Year 2001-2002, as follows: 109.3 square miles are used or zoned for commercial/industrial purposes (8.5%), 198.7 square miles for residential purposes (15.4%), 70.1 square miles are utilized for improved roadways (including roadways owned by Caltrans) (5.4%), 753.9 square miles are vacant or utilized for open space (58.3%), and 161.3 square miles are used for agricultural purposes (12.5%). The federal government owns 310.7 square miles (24%) of the territory within the area shown on Appendix 1.

Less than one fifth (1/5) of the entire acreage within Riverside County drains into water bodies within the Permit Area. The Permit Area includes the "Urban Area" as shown in Appendix 1 and those portions of "Agriculture" and "Open Space" as shown on Appendix 1 that do convert to industrial, commercial or residential use during the term of this Order. The Permit Area is delineated by the San Bernardino-Riverside County boundary line on the north and northwest, the Orange Riverside County boundary line on the west, the Santa Ana-San Diego Regional Board boundary line on the south, and the Santa Ana Colorado River Basin Regional Board boundary line on the east. Sixty-seven percent of Riverside County’s population resides within the Regional Board's jurisdiction. The San Diego and the Colorado River Basin Regional Water Quality Control Boards regulate Urban Runoff from those portions of Riverside County outside of the Permit Area shown in Appendix 1.

C. CLEAN WATER ACT REQUIREMENTS

The federal Clean Water Act (the "CWA") established a national policy designed to help maintain and restore the physical, chemical and biological integrity of the nation's waters. In 1972, the CWA established the NPDES permit program to regulate the discharge of pollutants from point sources to waters of the nation (the "Waters of the U. S."). From 1972 to 1987, the main focus of the NPDES program was to regulate conventional pollutant sources such as sewage treatment plants and industrial facilities. As a result, on a nationwide basis, non-point sources, including agricultural runoff and rban runoff, now contribute a larger portion of many kinds of pollutants than the more thoroughly regulated sewage treatment plants and industrial facilities.

The National Urban Runoff Program (NURP) final report to the Congress (USEPA, 1983) concluded that the goals of the CWA could not be achieved without addressing urban runoff discharges. The 1987 CWA amendments established a framework for regulating urban runoff. Pursuant to these amendments, the Santa Ana Regional Board began regulating municipal storm water runoff in 1990.

II. REGULATORY BACKGROUND AND CLEAN WATER REQUIREMENTS

Recent studies [1] conducted in the Southern California area have established storm water runoff from urban areas as significant sources of pollutants in surface waters in Southern California. The Santa Ana River is impacted by agricultural and urban runoff as it flows through the San Bernardino County and Riverside County areas prior to flowing through Orange County and into the Pacific Ocean. If not properly controlled, urban runoff could be a significant source of pollutants in the Waters of the U. S. Table 1 includes a list of pollutants, their sources, and some of the adverse environmental consequences mostly resulting from urbanization.

The CWA prohibits the discharge of any pollutant to navigable waters from a point source unless an NPDES permit authorizes the discharge. Efforts to improve water quality under the NPDES program traditionally and primarily focused on reducing pollutants in discharges of industrial process wastewater and municipal sewage. The 1987 amendments to the CWA required MS4s and industrial facilities, including construction sites, to obtain NPDES permits for storm water runoff from their facilities. On November 16, 1990, the USEPA promulgated the final Phase I storm water regulations. The storm water regulations are contained in 40 CFR Parts 122, 123 and 124.

On July 13, 1990, the Regional Board issued Order No. 90-104 to the Permittees (first term permit). In 1996, the Regional Board adopted Order No. 96-30 (second term permit).

In 2001, to more effectively carry out the requirements of this Order, the Permittees have agreed that the RCFC&WCD will continue as the Principal Permittee and the County and

[1] Bay, S., Jones, B. H. and Schiff, K, 1999, Study of the Impact of Stormwater Discharge on Santa Monica Bay. Sea Grant Program, University of Southern California; and Haile, R.W., et. al., 1996, An Epidemiological Study of Possible Adverse Health Effects of Swimming in Santa Monica Bay. Southern California Coastal Water Research Project (1992), Surface Runoff to the Southern California Bight.

the incorporated cities will continue as the Co-Permittees. On January 19, 2001, the Regional Board adopted Order No. 01-34, NPDES No. CAG 618005 Watershed-wide Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with New Developments in the San Jacinto Watershed. On March 2, 2001, Order No. 96-30, NPDES No. CAS618033, was administratively extended in accordance with Title 23, Division 3, Chapter 9, §2235.4 of the California Code of Regulations.

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Table 1[2].

Pollutant Sources *and impacts of a number of pollutants*
On Waters of the U.S.

Pollutants	Sources	Effects and Trends
Toxins (e.g., biocides, PCBs, trace metals, heavy metals)	Industrial and municipal wastewater; runoff from farms, forests, urban areas, and landfills; erosion of contaminated soils and sediments; vessels; atmospheric deposition	Poison and cause disease and reproductive failure; fat-soluble toxins may bioconcentrate, particularly in birds and mammals, and pose human health risks. Inputs into U.S. waters have declined, but remaining inputs and contaminated sediments in urban and industrial areas pose threats to living resources.
Pesticides (e.g., DDT, diazinon, chlorpyrifos)	Urban runoff, agricultural runoff, commercial, industrial, residential and farm use	The use of legacy pesticides (DDT, chlordane, dieldrin,…) has been banned or restricted; still persists in the environment; some of the other pesticide uses are curtailed or restricted.
Biostimulants (organic wastes, plant nutrients)	Sewage and industrial wastes; runoff from farms and urban areas; nitrogen from combustion of fossil fuels	Organic wastes overload bottom habitats and deplete oxygen; nutrient inputs stimulate algal blooms (some harmful), which reduce water clarity, and alter food chains supporting fisheries. While organic waste loading has decreased, nutrient loading has increased (NRC, 1993a, 2000a).
Petroleum products (oil, grease, petroleum hydrocarbons, PAHs)	Urban runoff and atmospheric deposition from land activities; accidental spills; oil & gas production activities; natural seepage; and PAHs from internal combustion engines	Petroleum hydrocarbons can affect bottom organisms and larvae; spills affect birds, mammals and aquatic life. While oil pollution from accidental spills, and production activities has decreased, diffuse inputs from land-based activities have not (NRC, 1985).
Radioactive isotopes	Atmospheric fallout, industrial and military activities	Bioaccumulation may pose human health risks where contamination is heavy.
Sediments	Erosion from farming, construction activities, forestry, mining, development; river diversions; coastal dredging and mining	Reduce water clarity and change bottom habitats; carry toxins and nutrients; clog fish gills and interfere with respiration in aquatic fauna. Sediment delivery by many rivers has decreased, but sedimentation poses problems in some areas.
Plastics and other debris	Boats, fishing nets, containers, trash, urban runoff	Entangles aquatic life or is ingested; degrades, lake shores and wetland habitats. Floatables (from trash) are an aesthetic nuisance and can be a substrate for algae and insect vectors.
Thermal	Cooling water from power plants and industry, urban run off from impervious surfaces	Kills some temperature-sensitive species; and displaces others.
Pathogens (bacteria, protozoa, viruses)	Sewage, urban runoff, livestock, wildlife, and discharges from boats.	Pose health risks to swimmers and consumers of aquatic life. Sanitation has improved, but standards have been raised (NRC 1999a).
Alien species	Fishery stocking, aquarists	Displace native species, introduce new diseases; growing worldwide problem (NRC 1996).

[2] Adapted from “Marine Pollution in the United States” prepared for the Pew Oceans Commission, 2001.

The area-wide NPDES permit for the Permit Area is being considered for renewal in accordance with Section 402 (p) of the CWA and all requirements applicable to an NPDES permit issued under the issuing authority's discretionary authority. The requirements included in this Order are consistent with the CWA, the federal regulations governing urban storm water discharges, the Water Quality Control Plan for the Santa Ana River Basin (Basin Plan), the California Water Code, and the State Board's Plans and Policies.

The Basin Plan is the basis for the Regional Board's regulatory programs. The Plan was developed and is periodically reviewed and updated in accordance with relevant federal and state law and regulation, including the CWA and the California Water Code. As required, the Basin Plan designates the beneficial uses of the waters of the Region and specifies water quality objectives intended to protect those uses. (Beneficial uses and water quality objectives, together with an antidegradation policy, comprise federal "water quality standards"). The Basin Plan also specifies an implementation plan, which includes certain discharge prohibitions. In general, the Basin Plan makes no distinctions between wet and dry weather conditions in designating beneficial uses and setting water quality objectives, i.e., the beneficial uses, and correspondingly, the water quality objectives are assumed to apply year-round. (Note: In some cases, beneficial uses for certain surface waters are designated as "I", or intermittent, in recognition of the fact that surface flows (and beneficial uses) may be present only during wet weather.) Most beneficial uses and water quality objectives were established in the 1971, 1975 and 1983 Basin Plans.

Water Code Section 13241 requires that certain factors be considered, at a minimum, when water quality objectives are established. These include economics and the need for developing housing in the Region. (The latter factor was added to the Water Code in 1987). During this permit development process, the Permittees raised an issue regarding compliance with Section 13241 of the California Water Code with respect to water quality objectives for wet weather conditions, specifically the cost of achieving compliance during wet weather conditions and the need for developing housing within the Region and its impact on Urban Runoff. During the next review of the Basin Plan, staff will recommend that this matter be incorporated on the triennial review list. In the meantime, the provisions of this Order will result in reasonable further progress towards the attainment of the existing water quality objectives, in accordance with the discretion in the permitting authority recognized by the United States Court of Appeals for the Ninth Circuit in Defenders of Wildlife vs. Browner, 191 F.3d 1159, 1164 (9th Cir. 1999).

III. EXCLUSIONS TO THE PERMITTED AREA

Areas of the County not addressed or which are excluded by the storm water regulations and areas not under the jurisdiction of the Permittees are excluded from the area requested for coverage under this permit application. These include the following areas and activities:

- Federal lands and state properties, including, but not limited to, military bases, national forests, hospitals, colleges and universities, and highways;

- Native American tribal lands;

- Open space and rural (non-urbanized) areas;
- Agricultural lands; and
- Utilities and special districts.

These areas in the Permit Area for which coverage under a municipal stormwater NPDES permit is excluded, are shown in Appendix I (Western Riverside County NPDES Permit Area).

IV. BENEFICIAL USES

Stormwater flows which are discharged to MS4s in the Permit Area are tributary to various water bodies (inland surface streams, lakes and reservoirs) of the state. The beneficial uses of these water bodies include municipal and domestic supply, agricultural supply, industrial service and process supply, groundwater recharge, water contact recreation, non-contact water recreation, and sportfishing, warm freshwater habitat, cold freshwater habitat, preservation of biological habitats of special significance, wildlife habitat and preservation of rare, threatened or endangered species. The ultimate goal of this Order is to protect the beneficial uses and quality of the Receiving Waters.

To protect the beneficial uses of the Receiving Waters, the pollutants from all sources, including Urban Runoff, need to be controlled. Recognizing this, and the fact that Urban Runoff contains pollutants, an area-wide MS4 permit is the most effective way to develop and implement a comprehensive Urban Runoff management program in a timely manner. This area-wide MS4 permit contains requirements with time schedules that will allow the Permittees to continue to address water quality problems caused by Urban Runoff through their management programs to reduce pollutants in storm water discharges to the MEP[See Appendix 4, Glossary].

V. WATERSHED MANAGEMENT IN THE UPPER SANTA ANA RIVER BASIN

A. Management Approach

To regulate and control Urban Runoff from the Permit Area to the MS4s, an area-wide approach is essential and a holistic approach is needed to efficiently manage the water resources of the Region. The entire MS4 is not controlled by a single entity; the RCFC&WCD, the County of Riverside, several cities, the State Department of Transportation (Caltrans), and the U.S. Army Corps of Engineers, in addition to other smaller entities, manage the MS4s. In addition to the cities, the County of Riverside and the RCFC&WCD, there are a number of other significant contributors of Urban Runoff to these MS4s. These include: large institutions such as the State university system, prisons, schools, hospitals, etc.; federal facilities such as military sites, etc.; State agencies, such as Caltrans; water and wastewater management agencies such as Eastern and Western Municipal Water District; the National Forest Service and State parks. The State Board has issued a separate NPDES permit to Caltrans. In addition, Caltrans, and the other contributors identified, are not under the jurisdiction of the Permittees. The management and control of the entire MS4 cannot be effectively carried out without the cooperation and efforts of all these entities. Also, it would not be

meaningful to issue a separate MS4 permit to each of the entities within the Permit Area whose land/facilities drain into the MS4s operated by the Permittees. The Regional Board has concluded that the best management option for the Riverside County area is to issue an area-wide Urban Runoff permit to the Permittees.

Although, the Urban Runoff from the Permit Area drains into Orange County, urban runoff from Orange County areas are regulated under NPDES No. CAS 618030. Some areas within Riverside County are within the Colorado River Basin and San Diego Regional Boards' jurisdictions. Permit requirements for storm water runoff from the drainage areas of Riverside County within the jurisdiction of the San Diego and Colorado River Basin Regional Boards are addressed by those Regional Boards.

In developing Urban Runoff management and monitoring programs, consultation/coordination with other drainage management entities and other Regional Boards is essential. Common programs, reports, implementation schedules and efforts are desirable and will be utilized to the MEP.

Cooperation and coordination among all the stakeholders are essential for efficient and economical management of the watershed. It is also critical to manage non-point sources at a level consistent with the management of Urban Runoff in a watershed in Order to successfully prevent or remedy water quality impairment. Regional Board staff will facilitate coordination of monitoring and management programs among the various stakeholders.

An integrated watershed management approach is consistent with the Strategic Plan and Initiatives for the State and Regional Boards. A watershed wide approach is also necessary for implementation of the load and waste load allocations to be developed under the TMDL process. The Permittees and all the affected entities are encouraged to participate in regional or watershed solutions, instead of project-specific and fragmented solutions.

The pollutants in Urban Runoff originate from a multitude of sources and effective control of these pollutants requires a cooperative effort of all the stakeholders and many regulatory agencies. Every stage of urbanization should be considered in developing appropriate Urban Runoff pollution control methodologies. The program’s success depends upon consideration of pollution control techniques during planning, construction and post-construction operations. At each stage, appropriate pollution prevention measures, source control measures, and, if necessary, treatment techniques should be considered.

B. SUB-WATERSHEDS AND MAJOR CHALLENGES

The Santa Ana River watershed is the major watershed within this Region. This watershed is divided into three sub-watersheds: the Lower Santa Ana, Upper Santa Ana, and San Jacinto.

1. The lower Santa Ana River sub-watershed (downstream from Prado Basin) includes the north half of Orange County. The Upper Santa Ana River sub-watershed includes the southwestern corner of San Bernardino County and the northwestern corner of Riverside County. The San Jacinto sub-watershed includes the northwest corner of Riverside County south of the Upper Santa Ana River sub-watershed within this Region.

   Generally, the San Bernardino County drainage areas drain to the Riverside County drainage areas, and Riverside County drainage areas discharge to Orange County through Prado Dam on the Santa Ana River. Most of the flow in the Santa Ana River is recharged into the ground water in Orange County but infrequently some of the flow may be discharged to the Pacific Ocean as a result of heavy storm events.

   Water from rainfall and snow melt runoff, and surfacing ground water from various areas either discharge directly to the Santa Ana River or to watercourses tributary to the Santa Ana River. Other major rivers in the Permit Area include the San Jacinto River and Temescal Creek. The San Jacinto Mountain areas drain into the San Jacinto River, which discharges into Canyon Lake and then to Lake Elsinore. Any overflow from Lake Elsinore is tributary to Temescal Creek, which flows into the Santa Ana River at the Prado Flood Control Basin. Overflow from Lake Elsinore occurs infrequently, only once every 12 to 15 years.

2. Upper Santa Ana River Sub-watershed:

   a. Reach 3 of the Santa Ana River (Prado Dam to Mission Boulevard in Riverside): The pollutants of concern for Reach 3 are nutrients, pathogens, salinity, total dissolved solids and chlorides. However, the Board now recognizes that Reach 3 of the Santa Ana River is meeting the standards for nutrients, salinity, TDS and chlorides and has requested the USEPA that this Reach be de-listed for these constituents. Reach 3 of the Santa Ana River has been posted by Riverside County, as it consists largely of POTW effluent, indicating that it is not suitable for body contact recreation due to microbial contamination. On March 23, 2000, the Executive Officer issued a request under Section 13267 of the CWC to the County and the cities that discharge urban runoff into this segment of the River to start an investigation of the microbial contamination of the River. The other problems associated with this segment of the River are addressed through the Regional Board's dairy program and TDS/nitrogen control programs.

   b. Reach 4 of the Santa Ana River: Reach 4 of the Santa Ana River is the portion of the River from Mission Boulevard bridge in Riverside to the San Jacinto fault (Bunker Hill Dike) in San Bernardino. Reach 4 is also listed in the CWA Section 303 (d) as an impaired water body. Most of Reach 4 of the River is under the

San Bernardino County area. The pollutants of concern for Reach 4 are pathogens.

c. San Jacinto Sub-watershed: Canyon Lake and Lake Elsinore are in this watershed and are listed on the 303(d) list for nutrients/pathogens (Canyon Lake) and nutrients, sediment, and unknown toxicity (Lake Elsinore). TMDLs are being developed for these impaired waterbodies. In the interim, the Regional Board adopted a separate watershed-wide construction activity storm water permit to regulate construction activities in this area. This permit may be reopened to include TMDL requirements.

C. *CWA SECTION 303(d) LIST AND TMDLS:*

Pursuant to Section 303(b) of the CWA, the 1998 water quality assessment conducted by the Regional Board listed a number of water bodies within the Region under Section 303(d) of the CWA as impaired water bodies. These are water bodies where the designated beneficial uses are not met and the water quality objectives are being violated. The sources of the impairments include POTW discharges, and runoff from agricultural, open space and urban land uses. The impaired water bodies in Riverside County within the Santa Ana Regional Board's jurisdiction are listed in Table 2.

Federal regulations require that a total maximum daily load (TMDL) be established for each 303(d) listed waterbody for each of the pollutants causing impairment. The TMDL is the total amount of the problem pollutant that can be discharged while water quality standards in the receiving water are attained, i.e., water quality objectives are met and the beneficial uses are protected. It is the sum of the individual wasteload allocations (WLA) for point source inputs, load allocations (LA) for non-point source inputs and natural background, with a margin of safety. The TMDLs are the basis for limitations established in waste discharge requirements. TMDLs are being developed for all pollutants identified in Table 2. The Permittees shall revise their DAMP, at the direction of the Executive Officer, to incorporate program implementation amendments so as to comply with regional, watershed specific requirements, and/or waste load allocations developed and approved pursuant to the process for the designation and implementation of Total Maximum Daily Loads (TMDLs) for impaired water bodies.

Table 2

CWA Section 303(d) Listed Waterbodies, 1998 List

WATER BODY	*HYDRO UNIT*	*POLLUTANT/ STRESSOR*	*SOURCE*	*PRIORITY*	*SIZE AFFECTED*
Canyon Lake	802.120	Nutrients	Nonpoint Source	Medium	600 Acres
		Pathogens	Nonpoint Source	Medium	600 Acres
Lake Elsinore	802.310	Nutrients	Unknown Nonpoint Source	Medium	3300 Acres
		Org. enrichment /low D.O.	Unknown Nonpoint Source	Medium	3300 Acres
		Sediment / Siltation	Urban Runoff and Storm Drains	Medium	3300 Acres
		Unknown Toxicity	Unknown Nonpoint Source	Medium	3300 Acres
Lake Fulmor	802.210	Pathogens	Unknown Nonpoint Source	Low	9 Acres
Santa Ana River, Reach 3	801.200	Nutrients	Dairies	Medium	3 Miles
		Pathogens	Dairies	Medium	3 Miles
		Salinity/TDS/Chlorides	Dairies	Medium	3 Miles
Santa Ana River, Reach 4	801.120	Pathogens	Nonpoint Source	Low	12 Miles

VI. FIRST AND SECOND TERM PERMITS: STORM WATER POLLUTION CONTROL PROGRAMS AND POLICIES

Prior to USEPA's promulgation of the final regulations implementing the storm water requirements of the 1987 CWA amendments, the counties of Orange, Riverside and San Bernardino requested an area-wide NPDES permits for storm water runoff. On July 13, 1990, the Regional Board issued Order No. 90-104 to the Permittees (first term permit). In 1996, the Regional Board adopted Order No. 96-30 (second term permit). First and second term permits included the following requirements:

1. Prohibited non-storm water discharges to the MS4s with certain exceptions.
2. Required the municipalities to develop and implement a DAMP to reduce pollutants in Urban Runoff to the MEP.
3. Required the discharges from the MS4s to meet water quality standards in Receiving Waters.
4. Required the municipalities to identify and eliminate illicit connections and illegal discharges to the MS4s.
5. Required the municipalities to establish legal authority to enforce Storm Water Ordinances.
6. Required monitoring of dry weather flows, storm flows, and receiving water quality, and program assessment.

During the first term permit, the Permittees developed a DAMP which was approved by the Executive Officer on January 18, 1994. The DAMP included five BMP groups: environmental education activities, solid waste activities, road drainage system operations and maintenance, regulatory and enforcement activities, and structural controls. The DAMP will be revised to include program components developed during the term of the 1996 Permit and to address requirements of this Order. The Permittees also indicated that the monitoring program would be revised and incorporated into the revised DAMP.

The RCFC&WCD performs water quality monitoring activities in support of three separate area-wide NPDES MS4 Permits (Santa Ana, San Diego and Colorado River basins) under the Consolidated Monitoring Program (CMP). Water samples and/or sediment samples have been collected at a total of 74 locations over the last nine years. These 74 locations are comprised of 45 storm drain outfalls, 12 receiving water, 15 sediment, and 2 special interest sampling locations. The August 30, 2000, ROWD indicated that in order to assess long-term trends and BMP effectiveness they would need more data points, with at least 5 samples (of similar types) obtained for many years. The ROWD indicated that the CMP would have to be revised. In the future, these monitoring stations and monitoring will be used to identify problem areas and to re-evaluate the monitoring program and the effectiveness of the BMPs. The future direction of some of these program elements will depend upon the results of the ongoing studies and a holistic approach to watershed management.

Other elements of the Urban Runoff management program included identification and elimination of illegal discharges, illicit connections, and establishment of adequate legal authority to control pollutants in storm water discharges. Most of the Permittees have completed a survey of their MS4s to identify illegal/illicit connections and have adopted

appropriate ordinances to establish legal authority. Some of the more specific achievements during the first and second term permits are as follows:

1. During the term of the 1996 Permit, the Permittees have operated under an Implementation Agreement that sets forth the responsibilities of the Permittees as defined in the 1996 Permit. The Permittees have adopted Storm Water Ordinances regarding the management of Urban Runoff. The Storm Water Ordinances provide the Permittees with the legal authority to implement the requirements of the 1996 Permit and the key regulatory requirements contained in 40 CFR Section 122.26(d)(2)(I)(A-F).
2. The Permittees have participated in the CMP.
3. The Permittees administered area-wide programs including: hazardous materials emergency response, household hazardous waste collection, industrial/commercial compliance assistance program and public education and outreach. Some of these programs were coordinated with Caltrans and local agencies.
4. A Municipal Facilities Strategy was established, a New Development Guideline was developed, pet waste brochure, BMP brochure for horse owners, BMP brochure for pool discharges and a general outreach brochure for residents that hire contractors were developed.
5. A Technical Advisory Committee for overall program development and implementation was established.
6. Program Review: A number of existing programs were reviewed to determine their effectiveness in combating urban runoff pollution and to recommend alternatives and or improvements, including public agency activities and facilities, illegal discharges and illicit connections to the MS4 systems, and existing monitoring programs.
7. Public Education: A number of steps were taken to educate the public, businesses, industries, and commercial establishments regarding their role in urban runoff pollution controls. The industrial dischargers were notified of the storm water regulatory requirements. For a number of unregulated activities, BMP guidances were developed and a toll free hotline was established for reporting any suspected water quality problems.
8. Public Agency Training: Training was provided to public agency employees to implement New Development Guidelines and Public Works BMPs.
9. Related Activities: Modified MS4s by channel stabilization and creation of sediment basins; eliminated or permitted and documented illicit connections to the MS4s.

An accurate and quantifiable measurement of the impact of the above stated Urban Runoff management programs is difficult, due to a variety of reasons, such as the variability in chemical water quality data, the incremental nature of BMP implementation, lack of baseline monitoring data, and the existence of some of the programs and policies prior to initiation of formal Urban Runoff management programs. There are generally two accepted methodologies for assessing water quality improvements: (1) conventional monitoring such as chemical-specific water quality monitoring; and (2) non-conventional monitoring, such as monitoring of the amount of household hazardous waste collected and disposed off at appropriate disposal sites, the amount of used oil collected, and the amount of debris removed by the debris boom, etc.

The water quality monitoring data could not be used to indicate any discernible trends or significant changes. It is expected that continuation of these programs and policies will reduce or control pollutants in Urban Runoff.

During the second term permit, there was an increased focus on watershed management initiatives and coordination among the municipal permittees in Orange, Riverside and San Bernardino Counties. These efforts resulted in a number of regional monitoring programs and other coordinated program and policy developments.

It is anticipated that with continued implementation of the revised DAMP and other requirements specified in this Order, the goals and objectives of the storm water regulations will be met, including protection of the beneficial uses of all Receiving Waters.

VII. FUTURE DIRECTION/2000 ROWD

The ROWD (2000 ROWD) included an overview of the programs and policies the Permittees are proposing to implement during the third term permit. One of the proposed activities is to revise the 1993 DAMP. The 2000 ROWD specified that the revised DAMP will be the principal guidance document for Urban Runoff management programs in the Permit Area. The suggested outline for the revised DAMP include the following major components:

1. Continues a framework for the program management activities and DAMP update.
2. Continues to provide the legal authority to control discharges to the MS4s.
3. Includes a description of land use and population characteristics.
4. Improves current BMPs to achieve further reduction in pollutant loading to the MS4s.
5. Identifies TMDL concerns and an implementation schedule and other tools for addressing those concerns.
6. Identifies pollutants of concern in the regional water bodies.
7. Includes programs and policies to increase public education processes and to seek public support for Urban Runoff pollution prevention BMPs.
8. Continue with Management Steering Committee and other technical/advisory committees.
9. Includes sections on construction sites, development planning, industrial and commercial sources, and public education and outreach.
10. Includes programs and policies to eliminate illegal discharges and illicit connections to the MS4s.
11. Includes a continued and revised monitoring program for Urban Runoff.
12. Includes provisions for any special focus studies and/or control measures.

A combination of these programs and policies and the requirements specified in this Order should ensure control of pollutants in storm water runoff from owned and/or controlled by the Permittees.

VIII. PERMIT REQUIREMENTS AND PROVISIONS

The legislative history of storm water statutes (1987 CWA Amendments), USEPA regulations (40CFR Parts 122, 123, and 124), and clarifications issued by the State Board (State Board Orders No. WQ 91-03 and WQ 92-04) indicate that a non-traditional NPDES

permitting strategy was anticipated for regulating urban runoff. Due to the economic and technical infeasibility of full-scale end-of-pipe treatments and the complexity of urban runoff quality and quantity, MS4 permits generally include narrative requirements for the implementation of BMPs in place of numeric effluent limits.

The requirements included in this Order are meant to specify those management practices, control techniques and system design and engineering methods that will result in MEP protection of the beneficial uses of the Receiving Waters. The State Board (Orders No. WQ 98-01 and WQ 99-05) concluded that MS4s must meet the technology-based MEP standard and water quality standards (water quality objectives and beneficial uses). The U.S. Court of Appeals for the Ninth Circuit subsequently held that strict compliance with water quality standards in MS4 permits is at the discretion of the local permitting agency. Any requirements included in the Order that are more stringent than the federal storm water regulations are in accordance with the CWA Section 402(p)(3)(iii), and the California Water Code Section 13377 and are consistent with the Regional Board's interpretation of the requisite MEP standard.

The ROWD included a discussion of the current status of Riverside County's Urban Runoff management program and the proposed programs and policies for the next five years (third term permit). This Order incorporates these documents and specifies performance commitments for specific elements of the Permittees Urban Runoff management program.

This Order recognizes the progress made by the Permittees during the first and second term permits in implementing the storm water regulations. The Order also recognizes regional and innovative solutions to such a complex problem. For these reasons, the Order is less prescriptive compared to some of the MS4 NPDES permits for urban runoff issued by other Regional Boards. However, it should achieve the same or better water quality benefits because of the programs and policies already being implemented or proposed for implementation, including regional and watershed wide solutions.

The essential components of the Urban Runoff Management Program, as established by federal regulations [40 CFR 122.26(d)] are: (i) Adequate Legal Authority, (ii) Fiscal Resources, (iii) Storm Water Quality Management Program (SQMP) - (Public Information and Participation Program, Industrial/Commercial Facilities Program, Development Planning Program, Development Construction Program, Public Agency Activities Program, Illicit Connection and Illicit Discharges Elimination Program), and (iv) Monitoring and Reporting Program. The major sections of the requirements in this Order include: I. Responsibilities; II. Discharge Limitations/Prohibitions; III. Receiving Water Limitations; IV. Implementation Agreement; V. Legal Authority/Enforcement; VI. Illegal/Illicit Connections/Illegal Discharges; Litter, Debris and Trash Control; VII. Sewage Spills, Infiltration into MS4 Systems from Leaking Sanitary Sewer Lines, Septic System Failures, and Portable Toilet Discharges; VIII. New Development (including significant re-development); IX. Municipal Inspection Program; X. Public Education and Outreach; XI. Municipal Facilities Programs and Policies/Activities; XII. Municipal Construction Projects/Activities; XIII. Program Management/Damp Review; XIV. Monitoring and Reporting Requirements; XV. Provisions; XVI. Permit Expiration and Renewal.
These programs and policies are intended to improve urban storm water quality and protect the beneficial uses of receiving waters of the region.

A. RESPONSIBILITIES

The responsibilities of the Principal Permittee is to coordinate the overall Urban Runoff management program and the Co-Permittees are responsible for managing the Urban Runoff Program within their jurisdictions as detailed in the ROWD and Order No. 96-30 and 90-104.

B. DISCHARGE PROHIBITIONS

In accordance with CWA Section 402(p)(3)(B)(ii), this Order prohibits the discharge of non-storm water to the MS4s, with a few exceptions. The specified exceptions are consistent with 40 CFR 122.26(d)(2)(iv)(B)(1). If the Permittees or the Executive Officer determines that any of the exempted non-storm water discharges is a significant source of pollutants, a separate NPDES permit or coverage under the Regional Board's De Minimus permit will be required.

C. RECEIVING WATER LIMITATIONS

Receiving water limitations are included to ensure that discharges of Urban Runoff from MS4 systems do not cause or contribute to violations of applicable water quality standards in Receiving Waters. The compliance strategy for receiving water limitations is consistent with the USEPA and State Board guidance and recognizes the complexity of Urban Runoff management.

This Order requires the Permittees to meet water quality standards in Receiving Waters in accordance with USEPA requirements, as specified in State Board Order No. WQ 99-05. If water quality standards are not met by implementation of current BMPs, the Permittees are required to re-evaluate the programs and policies and to propose additional BMPs. Compliance determination will be based on this iterative BMP implementation process.

D. IMPLEMENTATION AGREEMENT

The existing Implementation Agreement needs to be revised to include the cities that were not signatories to this Agreement. This section requires that a copy of the signature page and any revisions to the Agreement shall be included in the Annual Report.

E. LEGAL AUTHORITY/ENFORCEMENT

Each Permittee has adopted a number of ordinances, municipal codes, and other regulations to establish legal authority to control discharges to the MS4s and to enforce these regulations as specified in 40 CFR 122.26(d)(2)(I)(B, C, E, and F). The Permittees are required to enforce these ordinances and to take enforcement actions against violators (40 CFR 122.26(d)(2)(iv)(A-D).

The enforcement activities undertaken by a majority of the Permittees have consisted primarily of Notices of Violation, which act to educate the public on the environmental consequences of illegal discharges. In the case of the County, additional action has sometimes included recovery of investigation and clean-up

costs from a responsible party. In the event of egregious or repeated violations, the option exists for a referral to the County District Attorney for possible prosecution or to the Regional Board for enforcement under the State Water Code or the CWA. In order to eliminate unauthorized, non-storm water discharges, reduce the amount of pollutants commingling with Urban Runoff and thereby protect water quality, an additional level of enforcement is required between Notices of Violation and District Attorney referrals. Therefore, within 18 months of the Order's adoption, the Permittees are required to establish the authority and resources to administer either civil or criminal fines and/or penalties for violations of their Storm Water Ordinances. The progress in establishing this program must be fully documented in the Annual Reports submitted by the Permittees and the number, nature and amount of fines and/or penalties levied must be reported, beginning with the 2003/2004 Annual Report.

F. Illicit Connections/Illegal Discharges; Litter, Debris and Trash Control;

Most of the Permittees have completed their survey of the MS4 systems and eliminated or permitted all identified illicit connections. The Permittees have also established a program to address illegal discharges and a mechanism to respond to spills and leaks and other incidents of discharges to the MS4s. The Permittees are required to continue these programs to ensure that the MS4s do not become a source of pollutants in Receiving Waters.

G. Sewage Spills, Infiltration into MS4 Systems from Leaking Sanitary Sewer Lines, Septic System Failures, and Portable Toilet Discharges;

In recent years, sewage spills/leaks into MS4s that discharge into Waters of the U.S. have become one of the leading causes of beneficial use impairment. To address these concerns, a set of separate waste discharge requirements for local sanitary sewer agencies is being prepared by the Regional Board. Failing septic systems and improper use of portable toilets have also been linked to microbial contamination of urban runoff. The Permittees shall identify, with the appropriate local agency, a mechanism to prevent failure of these septic systems from causing or contributing to pollution of Receiving Waters. The Permittees shall also review their local oversight program for the placement and maintenance of portable toilets to determine the need for any revision.

H. New Development (including Significant Redevelopment);

During the second term permit, the Permittees developed New Development guidelines. The Permittees are required to implement these guidelines. Additionally, this Order requires the Permittees to work towards the goal of maintaining the beneficial uses of Receiving Waters**.** To accomplish this goal, the Permittees have the option of using a number of methodologies. The Permittees/project proponents may propose BMPs based on a watershed approach, establish other innovative and proven alternatives to address Urban Runoff pollution. Numeric sizing criteria for controls at New and Significant Redevelopment sites are specified in this Order. Any proposed regional or watershed-wide (or sub-watershed) pollution control measure should afford water quality protection equivalent to or better than that from the prescribed numeric

sizing criteria. If a set of measures acceptable to the Executive Officer is not developed and approved by January 1, 2005, the Permittees are required to use the numeric sizing criteria specified in the Order. The numeric criteria are identical to the one used by the San Diego Regional Board in its MS4 permit for permittees within the San Diego County area (Order No. 2001-01).

I. Municipal Inspection Program;

Co-Permittee inspections of construction, industrial, and commercial activities within their jurisdiction will be conducted, in order to control the loading of pollutants entering the MS4 . The Co-Permittees will inventory facilities and sites in the above categories, prioritize these facilities based on threat to water quality, and perform regular inspections to insure compliance with local ordinances. While initial observations of non-compliance may result in 'educational' type enforcement, repeated non-compliance will result in more disciplinary forms of enforcement, such as monetary penalties, stop work orders or permit revocation. Chapter four of the Enforcement/Compliance Strategy (the "E/CS") proposes a prioritization scheme and response outline.

J. Public Education and Outreach;

Public outreach is an important element of the overall urban pollution prevention program. The Permittees have committed to implement a strategic and comprehensive public education program to maintain the integrity of the Receiving Waters and their ability to sustain beneficial uses. The Principal Permittee has taken the lead role in the outreach programs and has targeted various groups including businesses, industry, development, utilities, environmental groups, institutions, homeowners, school children, and the general public. The Permittees have developed a number of educational materials, have established a storm water pollution prevention hotline, started an advertising and educational campaign, and distributed public education materials at a number of public events. The Permittees are required to continue these efforts and to expand public participation and education programs.

K. Municipal Facilities Programs and Policies/Activities;

Education of municipal planning, inspection, and maintenance staff is critical to ensure that municipal facilities and activities do not cause or contribute to an exceedance of Receiving Water quality standards. The second term permit required the Permittees to report on an annual basis the actions taken to eliminate the discharge of pollutants from public agency activities and facilities. The Permittees are required to inspect and maintain their MS4s free of waste materials to control pollutants in Urban Runoff flowing through these systems. This Order requires the Permittees to re-evaluate their MS4s annually to see if additional BMPs are needed to ensure protection of Receiving Water quality.

L. Municipal Construction Projects/Activities;

This section addresses the requirements for the construction projects by the Permittees themselves.

M. Program Management/Damp Review;

The DAMP is a management document that needs to be updated with the new requirements of this Order.

N. Monitoring and Reporting Requirements;

During the first term permit and part of the second term permit, the Permittees conducted monitoring of the storm water flows, Receiving Water quality, and sediment quality. The Riverside County monitoring programs, as well as other monitoring programs nationwide, have shown that there is a high degree of uncertainty in the quality of storm water runoff and that there are significant variations in the quality of urban runoff spatially and temporally. However, most of the monitoring programs to date have indicated that there are a number of pollutants in urban runoff. Only in a few cases a definite link between pollutants in urban runoff and beneficial use impairments has been established.

Currently the Permittees are cooperating with the Regional Board in the development and implementation of appropriate monitoring programs to support the development of the Canyon Lake and Lake Elsinore TMDLs. This monitoring program includes sampling stormwater runoff at a variety of sites located throughout the watershed for three storm events per year. Stormwater samples will be collected and analyzed for a variety of constituents, principally nutrients. In addition to these efforts, the Permittees are reevaluating their overall Urban Runoff monitoring program to determine its effectiveness in meeting the following objectives:

1. Assess rates of mass loading
2. Assess influence of land use on water quality
3. Assess compliance with water quality objectives
4. Assess effectiveness of water quality controls
5. Detect illicit connections and illegal discharges
6. Identify problem areas and/or trends
7. Identify pollutants of concern
8. Identify baseline conditions
9. Establish/maintain a water quality database

To accomplish these goals, the following activities are conducted:

1. Collect water quality data
2. Collect rainfall/runoff data
3. Establish quality assurance/control procedures
4. Conduct data analysis and archiving
5. Install and maintain appropriate equipment
6. Prepare an annual report

The RCFC&WCD, in its role as Principal Permitee, participates in the Southern California Cooperative Stormwater Research/Monitoring Program. The key focus of this Cooperative Monitoring Program is to develop methodologies and assessment tools to more effectively understand urban stormwater and non-stormwater impacts to receiving waters. Additionally, some of the municipal permittees in the San Bernardino County and Riverside County have been requested to participate in the investigation of bacteriological water quality impairments in the Upper Santa Ana River.

The Permittees are encouraged to continue their participation in regional and watershed-wide monitoring programs. The Permittees are required to submit a revised water quality monitoring plan for the Executive Officer's approval.

IX. WATER QUALITY BENEFITS, COST ANALYSIS, AND FISCAL ANALYSIS

There are direct and indirect benefits from clean lake beaches, clean water, and a clean environment. It is difficult to assign a dollar value to the benefits the public derives from fishable and swimmable waters. In 1972, at the start of the NPDES program, only 1/3 of the U.S. waters were swimmable and fishable. In 2001, 2/3 of the U.S. waters meet these criteria. In the 1995 "*Money"* magazine survey of the "Best Places to Live", clean water and air ranked as the most important factors in choosing a place to live. Thus environmental quality has a definite link to property values.

The true magnitude of the urban runoff problem is still elusive and any cost estimate for cleaning up urban runoff would be premature short of end-of-pipe treatments. For urban runoff, end-of-pipe treatments are cost prohibitive and are not generally considered as a technologically feasible option. Over the last decade, the Permittees have attempted to define the problem and implemented BMPs to the MEP to combat the problem.

The costs incurred by the Permittees in implementing these programs and policies can be divided into three broad categories:

1. Shared costs: These are costs that fund activities performed mostly by the Principal Permittee under the Implementation Agreement. These activities include overall storm water program coordination; intergovernmental agreements; representation at the Storm Water Quality Task Force, Regional Board/State Board meetings and other public forums; preparation and submittal of compliance reports and other reports required under the NPDES permits, Water Code Section 13267 requests, budget and other program documentation; coordination of consultant studies, Co-Permittee meetings, and training seminars.

2. Individual Costs for DAMP Implementation: These are costs incurred by each Permittee for implementing the BMPs (drainage facility inspections for illicit connections, drain inlet/catch basin stenciling, public education, etc.) included in the DAMP. A number of programs and policies for non-point and storm water pollution controls existed prior to the urban runoff NPDES program. However, the DAMP that was developed and implemented in response to the urban runoff program required additional programs and policies for pollution control.

3. Individual Costs of Pre-Existing Programs: These are costs incurred by each Permittee for water pollution control measures which were already in existence prior to the urban runoff NPDES program. These programs included recycling, litter control, street sweeping, drainage facility maintenance, and emergency spill response.

Historically, the Permittees have employed four distinct funding methods to finance their NPDES Activities. Many Permittees utilize a combination of these funding sources. The different methods include:

1. Santa Ana Watershed Benefit Assessment Area

In 1991, the RCFC&WCD established the Santa Ana Watershed Benefit Assessment Area (SAWBAA) to fund its NPDES activities. Currently, SAWBAA revenues fund both area-wide NPDES program activities and the RCFC&WCD's individual permit compliance activities.

2. County Service Area 152

In December 1991, the County of Riverside formed County Service Area 152 (CSA 152) to provide funding for compliance activities associated with its NPDES permit activities. Under the laws that govern CSAs, sub-areas may be established within the overall CSA area with different assessment rates set within each sub-area. The cities of Corona, Moreno Valley, Norco, Riverside, Lake Elsinore and San Jacinto elected to participate in CSA 152.

3. Utility Charge

The City of Hemet funds a portion of its NPDES program activities through a utility charge.

4. General Fund /Other Revenues

The remaining Permittees utilize general fund revenue to finance their NPDES activities. Several Permittees also report using general fund and other revenue sources (e.g., gas taxes, developer fees, etc.) to fund a portion of their Urban Runoff management activities.

The Annual Report provides the most recent budgets and expenditures projections available for the costs incurred by the Permittees in implementing these programs and policies.

X. ANTIDEGRADATION ANALYSIS

The Regional Board has considered whether a complete antidegradation analysis, pursuant to 40 CFR 131.12 and State Board Resolution No. 68-16, is required for these Urban Runoff discharges. The Regional Board finds that the pollutant loading rates to the Receiving Waters will be reduced with the implementation of the requirements in this Order. As a result, the quality of Urban Runoff discharges and Receiving Waters will be improved, thereby improving protection for the beneficial uses of Waters of the U.S. Since this Order will not result in a lowering of water quality, a complete antidegradation analysis is not necessary, consistent with the federal and state antidegradation requirements.

XI. PUBLIC WORKSHOP

A number of workshops have been held to discuss the draft MS4 permits for the Orange and San Bernardino counties within the Regional Board's jurisdiction. The details regarding these permits are posted on the Regional Board's website or may be obtained by calling the office at 909-782-4130. Building upon those permits, a workshop for the Order was conducted on May 31, 2002, in Huntington Beach, California and a second workshop was conducted on September 6, 2002, in Loma Linda, California. The Public Hearing for consideration of adoption of the Order is scheduled for the October 25, 2002, Board Meeting in Corona.

The Regional Board recognizes the significance of Riverside County's Storm Water/Clean Water Protection Program and will conduct, participate, and/or assist with at any workshop during the term of this Order to promote and discuss the progress of the Urban Runoff management program. The details of the workshop will be posted on the Regional Board's website, published in local newspapers and mailed to interested parties. Persons wishing to be included in the mailing list for any of the items related to this permit may register their name, mailing address and phone number with the Regional Board office at the address given below.

XII. PUBLIC HEARING

The Regional Board will hold a public hearing regarding the proposed waste discharge requirements. The public hearing will be scheduled at a later time (tentatively on October 25, 2002, in the City of Corona) and information regarding the public hearing will also be posted on the website. Further information regarding the conduct and nature of the public hearing concerning these waste discharge requirements may be obtained by writing or visiting the Santa Ana Regional Board office, 3737 Main Street, Suite 500, Riverside, CA 92501.

XIII. INFORMATION AND COPYING

Persons wishing further information may write to the above address or call Keith Elliott at (909) 782-4925. Copies of the application, proposed waste discharge requirements, and other documents (other than those which the Executive Officer maintains as confidential) are available at the Regional Board office for inspection and copying by appointment scheduled between the hours of 10:00 a.m. and 4:00 p.m., Monday through Friday (excluding holidays).

XIV. REGISTER OF INTERESTED PERSONS

Any person interested in a particular application or group for applications may leave his name, address and phone number as part of the file for an application. Copies of tentative waste discharge requirements will be mailed to all interested parties.

XV. RECOMMENDATION

Adopt the proposed Order.

(October 10, 2002 Draft)
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION

ORDER NO. R8-2002-0011
NPDES NO. CAS 618033

WASTE DISCHARGE REQUIREMENTS

FOR
THE RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, THE COUNTY OF RIVERSIDE, AND THE INCORPORATED CITIES OF RIVERSIDE COUNTY WITHIN THE SANTA ANA REGION
AREAWIDE URBAN RUNOFF

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter the "Regional Board") finds that:

1. On August 30, 2000, the Riverside County Flood Control and Water Conservation District (hereinafter referred to as "RCFC&WCD" or "Principal Permittee", as context indicates), in cooperation with the County of Riverside, (the "County") and the incorporated cities of Beaumont, Calimesa, Canyon Lake, Corona, Hemet, Lake Elsinore, Moreno Valley, Murrieta, Norco, Perris, Riverside, and San Jacinto (hereinafter with the County, collectively referred to as the "Co-Permittees", and collectively with the Principal Permittee, the "Permittees"), jointly submitted a National Pollutant Discharge Elimination System (NPDES) Application No. CAS 618033, a Report of Waste Discharge (the "ROWD"), to renew the municipal separate storm sewer system ("MS4") NPDES permit for the Santa Ana River Watershed (the "Region") within Riverside County (the "Order") dealing with urban storm water runoff (hereinafter as defined and qualified in Findings 13 and 14, below, "Urban Runoff") in the "Permit Area" that includes the "Urban Area" as shown in Appendix 1 and those portions of "Agriculture" and "Open Space" as shown on Appendix 1 that convert to industrial, commercial or residential use during the term of this Order. To more effectively carry out the requirements of this Order, the Permittees have agreed that the RCFC&WCD will continue as the Principal Permittee and the County and the incorporated cities will continue as the Co-Permittees.

2. On February 16, 1999, the City of Murrieta annexed 1,124 acres, increasing the land area of the City to 18,273 acres. Of the acreage annexed, approximately 375 acres (or 2% of the City's land area) was in the unincorporated area of Riverside County within the Region. The Regional Board's construction database shows that approximately 247 acres out of 375 acres are proposed for development based on Notice of Intent ("NOI") submittals. The City of Murrieta has expressed its intent to be a Co-Permittee in this Order and for the purposes of this Order shall be considered as such.

3. On July 13, 1990, the Regional Board adopted the original Riverside County regional MS4 permit, Order No. 90-104 (NPDES No. CA 8000192), for Urban Runoff from areas in Riverside County within the Permit Area. On March 8, 1996, the Regional Board renewed Order No. 90-104 by adopting the second regional MS4 permit, Order No. 96-30, (NPDES No. CAS618033). Order No. 96-30 expired on March 1, 2001, and on March 2, 2001; Order No. 96-30 was administratively extended in accordance with 40CFR Part 122.6 and Title 23, Division 3, Chapter 9, Section 2235.4 of the California Code of Regulations.

4. This Order renews Order No. 96-30 (NPDES No. CAS618033), and regulates discharges of Urban Runoff from MS4s within Riverside County under the jurisdiction of and/or maintenance responsibility of the Permittees. This Order is intended to regulate the discharge of "pollutants" (as defined in Appendix 4, Glossary) in Urban Runoff from anthropogenic (generated from non-agricultural human activities) sources under the control of the Permittees and is not intended to address background or naturally occurring pollutants or flows.

5. The federal Clean Water Act (the "CWA") established a national policy designed to help maintain and restore the physical, chemical and "biological integrity" (as defined in Appendix 4, Glossary) of the nation's waters. In 1972, the CWA established the NPDES permit program to regulate the discharge of pollutants from "point sources" (as defined in Appendix 4, Glossary) to waters of the nation (the "Waters of the U. S."). From 1972 to 1987, the main focus of the NPDES program was to regulate conventional pollutant sources such as sewage treatment plants and industrial facilities. As a result, on a nationwide basis, "non-point sources" (as defined in Appendix 4, Glossary), including agricultural runoff and Urban Runoff, now contribute a larger portion of many kinds of pollutants than the more thoroughly regulated sewage treatment plants and industrial facilities.

6. Studies conducted by the United States Environmental Protection Agency (the "USEPA"), the states, counties, cities, flood control districts and other political entities dealing with urban "storm water" (as defined in Appendix 4, Glossary) runoff indicate the following major sources of Urban Runoff "pollution" (as defined in Appendix 4, Glossary) nationwide:

   a. Industrial sites where appropriate pollution control and best management practices ("BMPs")[1] are not implemented;
   b. Construction sites where erosion and siltation controls and BMPs are not implemented; and,
   c. Runoff from urbanized areas.

7. The 1987 amendments to the CWA added Section 402(p) that required the USEPA to develop permitting regulations for storm water discharges from MS4s and from industrial facilities, including construction sites. The USEPA promulgated the final Phase I storm water regulations on November 16, 1990. Neither the 1987 amendments to the CWA nor the Phase I storm water regulations (40 CFR Part 122) have been amended since their effective dates.

8. Section 402 (p) of the CWA establishes two different performance standards for storm water discharges. NPDES MS4 permits require controls to reduce the discharge of pollutants to the Maximum Extent Practicable (the "MEP") [See discussion of this term in the Glossary, Appendix 4]. NPDES permits issued for industrial storm water discharges (including construction activities) must meet Best Available Technology ("BAT") and Best Conventional Pollutant Control Technology ("BCT") standards. The CWA and the USEPA regulations promulgated pursuant thereto allow each state the flexibility to decide what constitutes the MEP.

[1] Best Management Practices (BMPs) are water quality management practices that are maximized in efficiency for the control of storm water runoff pollution.

9. Prior to the USEPA's promulgation of the final storm water regulations, three counties (Orange, Riverside, and San Bernardino) and their incorporated cities located within the Regional Board's jurisdiction requested area-wide NPDES MS4 permits. These area-wide MS4 NPDES permits are:

   a. Orange County, NPDES No. CAS 618030

   b. Riverside County, NPDES No. CAS 618033

   c. San Bernardino County, NPDES No. CAS 618036

10. Consistent with the CWA and the USEPA regulations promulgated pursuant thereto, the State Water Resources Control Board (the "State Board") and the Regional Board have adopted a number of permits to address pollution from the sources identified in Finding 6, above. Industrial activities (as defined in 40 CFR 122.26(b)(14)) and construction sites of five acres or more are to be covered under one of the following permits and those individuals or entities that engage in such activities are required to secure permission to engage in such identified activities pursuant to the provisions of one of the following permits:

    a. State Board Order No. 97-03-DWQ, for storm water runoff from industrial activities (NPDES No. CAS000001), (the "General Industrial Activities Storm Water Permit")

    b. State Board Order No. 99-08-DWQ, for storm water runoff from construction activities (NPDES No. CAS000002), (the "General Construction Activity Storm Water Permit"). Order No. 99-08- DWQ was amended by State Board Resolution No. 2001-046 on April 26, 2001, to incorporate monitoring provisions as directed by the Superior Court, County of Sacramento.

    c. State Board Order No. 99-06-DWQ (NPDES No. CAS000003) for storm water runoff from facilities (including freeways and highways) owned and/or operated by the California Department of Transportation ("Caltrans").

    d. Regional Board Order No. 01-34, adopted on January 19, 2001, for storm water discharges associated with new development (construction) to surface waters in the San Jacinto sub-watershed ("San Jacinto Watershed Construction Activities Permit").

    e. The Regional Board also issues individual storm water permits for certain industrial facilities within the Santa Ana River Watershed. Currently there is one industrial storm water NPDES permit that has been issued by the Regional Board for a facility (March Air Reserve Base) located within the Permit Area. Additionally, the Regional Board has issued NPDES permits for a number of facilities that discharge process wastewater and storm water; storm water discharge requirements are included in such a facility's NPDES permit.

11. The San Bernardino County Flood Control District and RCFC&WCD, in cooperation with local affected municipalities, are coordinating an effort to construct flood control facilities in the Chino-Corona Agricultural Preserve area (the "Preserve Area") located on the border of San Bernardino and Riverside Counties. The Preserve Area has the highest concentration of dairy animals in the nation. The ground and surface water quality in the Preserve Area have been

adversely impacted by these dairy operations. The dairies within the Permit Area are regulated under the Regional Board's "General Dairy Permit" (Order No. 99-11, NPDES No. CAG018001). The General Dairy Permit allows discharge of storm water from dairies only for storms exceeding a 24-hour, 25-year frequency. The portion of the Preserve Area within San Bernardino County lacks appropriate flood control facilities, and runoff from upstream urbanized areas within San Bernardino County often inundates some of the dairies in the Preserve Area, even during light or moderate storm and runoff events. This causes dairy waste containment facilities to fail and overflow into surface drainage facilities. This overflow causes nutrient, total dissolved solids (TDS), total suspended solids (TSS), and microbial problems in the "receiving waters" (as defined in Appendix 4, Glossary). However, there are only small areas of urbanized development in Riverside County upstream of the dairies subject to flooding. The RCFC&WCD is the lead agency responsible for engineering, design, contract administration, environmental review, and overall project management of the County Line Channel whose construction is intended to address this problem.

12. Section 13225 of the California Water Code (the "Water Code") identifies the Regional Board as being the enforcement authority for NPDES permits, including the General Industrial Activities Storm Water Permit (referenced in Finding 10.a., above) and the Construction Activity Storm Water Permits (referenced in Finding 10.b. and 10.d, above) (collectively, the "General Storm Water Permits"). However, in many areas, the industrial and construction sites discharge directly into MS4s owned and operated by the Permittees. These industrial and construction sites are also regulated under local ordinances and regulations. The Co-Permittees review plans for developments in accordance with the "Subdivision Map Act" (Section 66400 et seq. of the California Government Code), the California Environmental Quality Act ("CEQA") (Section 21000 et seq. of the California Public Resources Code), and local general plans and implementing ordinances and regulations to assure that new developments proceed in an orderly, and safe manner, consistent with each Co-Permittee's general plan. This Order establishes a responsibility of the Permittees to manage Urban Runoff. A coordinated effort between the Permittees and the Regional Board staff is critical to avoid duplicative and overlapping efforts when overseeing the compliance of dischargers covered under the General Storm Water Permits. As part of this coordination, the Permittees have been notifying Regional Board staff when they observe, during their routine activities, conditions that result in a threat or potential threat to water quality, or when a required industrial facility or construction activity fails to obtain coverage under the appropriate General Storm Water Permit. To more effectively coordinate these activities, the Regional Board staff intends to post their inspection activities related to administration of the General Storm Water Permits on the Regional Board website.

13. Urban Runoff includes those discharges from residential, commercial, industrial, and construction areas within the Permit Area and excludes discharges from feedlots, dairies, farms, and open space (also see Finding 14, below). Urban Runoff discharges consist of storm water and "non-storm water" (as defined in Appendix 4, Glossary) surface runoff from drainage sub-areas with various, often mixed, land uses within all of the hydrologic drainage areas that discharge into the Waters of the U. S. In addition to Urban Runoff, the MS4s regulated by this Order receive flows from agricultural activities, open space, state and federal properties and other non-urban land uses not under the control of the Permittees. The quality of the discharges from the MS4s varies considerably and is affected by, among other things, past and present land use activities, basin hydrology, geography and geology, season, the

frequency and duration of storm events, and the presence of past or present illegal and allowed discharges[2] and illicit connections[3].

14. The Permittees lack legal jurisdiction over storm water discharges into their respective MS4s from agricultural activities, California and federal facilities, utilities and special districts, Native American tribal lands, wastewater management agencies and other point and non-point source discharges otherwise permitted by or under the jurisdiction of the Regional Board. The Regional Board recognizes that the Permittees should not be held responsible for such facilities and/or discharges. Similarly, certain activities that generate pollutants present in Urban Runoff are beyond the ability of the Permittees to eliminate. Examples of these include operation of internal combustion engines, atmospheric deposition, brake pad wear, tire wear, residues from lawful application of pesticides, nutrient runoff from agricultural activities, and leaching of naturally occurring minerals from local geography.

15. Urban Runoff may contain elevated levels of pathogens (bacteria, protozoa, viruses), "sediment" (as defined in Appendix 4, Glossary), trash, fertilizers (nutrients, compounds of nitrogen and phosphorus), pesticides (DDT, Chlordane, Diazinon, Chlorpyrifos), heavy metals (cadmium, chromium, copper, lead, zinc), and petroleum products (oil, grease, petroleum hydrocarbons, polycyclic aromatic hydrocarbons). Urban Runoff can carry these pollutants to rivers, streams, and lakes within the Permit Area (collectively the "Receiving Waters"). In addition, although infrequently, Urban Runoff from the Permit Area can carry these pollutants to other receiving waters such as the Pacific Ocean. These pollutants can then impact the beneficial uses of the receiving waters and can cause or threaten to cause a condition of pollution or "nuisance" (as defined in Appendix 4).

16. Pathogens (from sanitary sewer overflows, septic system leaks, and spills and leaks from portable toilets, pets, wildlife and human activities) can impact water contact recreation and non-contact water recreation. "Floatables" (from trash) are an aesthetic nuisance and can be a substrate for algae and insect vectors. Oil and grease can coat birds and aquatic organisms, adversely affecting respiration and/or thermoregulation. Other petroleum hydrocarbon components can cause "toxicity" (as defined in Appendix 4, Glossary) to aquatic organisms and can impact human health. Suspended and settleable solids (from sediment, trash, and industrial activities) can be deleterious to benthic organisms and may cause anaerobic conditions to form. Sediments and other suspended particulates can cause turbidity, clog fish gills and interfere with respiration in aquatic fauna. They can also screen out light, hindering photosynthesis and normal aquatic plant growth and development. However, it is recognized that storm flows from non-urbanized areas such as "National Forest," "State Park," "Wilderness," and "Agriculture", as shown on Appendix 1, naturally exhibit high levels of suspended solids due to climate, hydrology, geology and geography.[4] Toxic substances (from

[2] Illegal discharge means any disposal, either intentionally or unintentionally, of material or waste to land or MS4s that can pollute storm water or create a nuisance. The term illegal discharge includes any discharge to the MS4 that is not composed entirely of storm water, except discharges pursuant to an NPDES permit, discharges that are identified in Section II. C. of this Order, and discharges authorized by the Executive Officer.

[3] Illicit Connection means any connection to the storm drain system that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. The term illicit connection includes all non storm-water discharges and connections except discharges pursuant to an NPDES permit, discharges that are identified in Section II, Discharge Limitations/Prohibitions, of this Order, and discharges authorized by the Executive Officer.

[4] Riverside County Flood Control and Water Conservation District's "Hydrology Manual," dated April 1978 and page II-4 of "Santa Ana River, Design Memorandum No. 1, Phase II GDM on the Santa Ana River Mainstem, including Santiago Creek, Volume 2, Prado Dam."

pesticides, petroleum products, metals, and industrial "wastes" (as defined in Appendix 4, Glossary)) can cause acute and/or chronic toxicity, and can bioaccumulate in organisms to levels that may be harmful to human health. Nutrients (from fertilizer use, fire fighting chemicals, decaying plants, confined animal facilities, pets, and wildlife) can cause excessive algal blooms. These blooms can lead to problems with taste, odor, color and increased turbidity, and can depress the dissolved oxygen content, leading to fish kills.

17. The water quality assessment conducted by Regional Board staff has identified a number of beneficial use impairments due, in part, to agricultural and Urban Runoff. Section 303(b) of the CWA requires each of California's Regional Water Quality Control Boards to routinely monitor and assess the quality of waters of their respective regions. If this assessment indicates that beneficial uses are not met, then that waterbody must be listed under Section 303(d) of the CWA as an impaired waterbody ("Impaired Waterbody"). The 1998 water quality assessment listed a number of water bodies within the Permit Area as impaired pursuant to Section 303(d). In the Permit Area, these include: Canyon Lake (for nutrients and pathogens); Lake Elsinore (for nutrients, organic enrichment/low D.O., unknown toxicity and sedimentation); Lake Fulmor (for pathogens); Santa Ana River, Reach 3 (for nutrients, pathogens, salinity, TDS, and chlorides); and Santa Ana River, Reach 4 (for pathogens). However, the Regional Board now recognizes that Reach 3 of the Santa Ana River is meeting the standards for nutrients, salinity, TDS and chlorides and has requested that this Reach be de-listed for these constituents in the 2002 CWA 303(d) list.

18. Federal regulations require that a total maximum daily load ("TMDL") be established for each 303(d) listed waterbody for each of the pollutants causing impairment. The TMDL is the total amount of the problem pollutant that can be discharged and still attain "water quality standards" (as defined in Appendix 4, Glossary) in the receiving water, i.e., Receiving Water quality objectives are met and the beneficial uses are protected. The TMDL is the sum of the individual Waste Load Allocations ("WLA") for point source inputs, Load Allocations ("LA") for non-point source inputs and natural background, with a margin of safety. The TMDLs are one of the bases for limitations established in waste discharge requirements ("Waste Discharge Requirements" and defined in Appendix 4, Glossary). TMDLs are being developed for sediment, pathogens, and nutrients for Lake Elsinore and Canyon Lake. The Permittees are providing assistance and cooperating with Regional Board staff in the TMDL efforts. The Permittees shall revise their Drainage Area Management Plan ("DAMP," and defined in Appendix 4, Glossary), at the direction of the Regional Board Executive Officer (the "Executive Officer"), to incorporate program implementation amendments so as to comply with Regional, "watershed" (as defined in Appendix 4, Glossary) specific requirements, and/or WLAs developed and approved pursuant to the process for the designation and implementation of TMDLs for Impaired Waterbodies. This permit may be reopened to include TMDL implementation, if other Urban Runoff implementation methodologies are not effective.

19. The area shown on Appendix 1 contains 1,293 square miles (or 17.7% of the 7,300 square miles within Riverside County) and includes 11 of the 24 municipalities within Riverside County. The California Department of Finance estimates that as of January 1, 2002, the

dated August 1988 and D.I. Inman & S.A. Jenkins "Climate Change and the Episodicity of Sediment Flux in Small California Rivers," Journal of Geology, Volume 107, pp. 251-270, 1999.

population of Riverside County is 1,644,341 of which 759,877 persons reside within the 11 municipalities and an additional 338,630 persons reside in the unincorporated area that is within the area shown on Appendix 1 (or a total of 1,098,507 persons or 66.8% of Riverside County's population). Five of the municipalities (Beaumont, Calimesa, Canyon Lake, Norco, and San Jacinto) have populations of 25,000 or less; three municipalities (Hemet, Lake Elsinore, and Perris) have populations between 25,001 and 62,000, Corona has a population of 133,966, Moreno Valley's population is 146,435 and Riverside has 269,402 residents. [Population figures for the city of Murrieta have been omitted because only 375 acres (2%) of the City's Land Area is within the area shown on Appendix 1. (See Finding No. 2.)] Of the total territory within the area shown on Appendix 1, 346.7 square miles are within the 11 incorporated areas and 944.6 square miles are unincorporated. General land uses within the 1,293.3 square miles comprising the area shown on Appendix 1 are identified, based on Riverside County Assessor's Roll for Fiscal Year 2001-2002, as follows: 109.3 square miles are used or zoned for commercial/industrial purposes (8.5%), 198.7 square miles for residential purposes (15.4%), 70.1 square miles are utilized for improved roadways (including roadways owned by Caltrans) (5.4%), 753.9 square miles are vacant or utilized for open space (58.3%), and 161.3 square miles are used for agricultural purposes (12.5%). The federal government owns 310.7 square miles (24%) of the territory within the area shown on Appendix 1.

20. Some portions of Riverside County within the Permit Area have been developed or zoned for residential, commercial and industrial uses. Urban development generally increases the area of impervious surfaces and storm water runoff volume and velocity; and decreases the area of previously vegetated surfaces available for infiltration of storm water, depending on soils, topography, climate, precipitation volume and patterns, and other factors. Based on the procedures in Section D of the Hydrology Manual of RCFC&WCD, dated April 1978, it is feasible that, in semi-arid regions, development may result in the creation of a net increase in absorption. Increases in runoff volume and velocity may cause scour, erosion (sheet, rill and/or gully), aggradation (raising of a streambed from sediment deposition), changes in fluvial geomorphology, hydrology, and changes in aquatic ecosystem (collectively, "Conditions of Concern"). The Permittees are the owners and operators of MS4s and have authority (except as qualified in Finding 14, above) to control most of the discharges of Urban Runoff to these systems. The Permittees have established appropriate legal authority to address their respective MS4s exposure to pollutant loads from discharges of Urban Runoff and have enhanced the design requirements for MS4s to address these potential discharges from new development. Co-Permittees have adopted grading and/or erosion control ordinances, guidelines and BMPs for municipal, commercial, and industrial activities, and along with RCFC&WCD, have approved and begun implementation of the DAMP. The Permittees have been and must continue to implement an effective combination of these programs, policies, and legal authority, to modify and enhance such programs and policies, and other additional requirements as identified herein, to ensure that pollutant loads resulting from Urban Runoff are properly controlled and managed to the MEP.

21. The Permittees own and/or operate MS4s through which Urban Runoff is discharged into the Waters of the U. S. The Permittees have identified major outfalls (with a pipe diameter of 36 inches or greater or drainage areas draining 50 acres or more) and have submitted maps of existing MS4s. The Co-Permittees reported having approximately 153.3 miles of underground

storm drains, and 21.3 miles of channels. The RCFC&WCD reported having 135 miles in underground storm drains and 133 miles of channels.

22. The MS4s generally contain non-storm water flows that may include runoff from agriculture and landscape irrigation, residential car washing, miscellaneous washing and cleaning operations, and other nuisance flows. In addition, these facilities are used to convey water produced from the Arlington Desalter and deliveries of other water for water conservation. During normal dry weather conditions, very little Urban Runoff reaches Receiving Waters[5]. Non-storm water discharges into the MS4s and to the Waters of the U. S. containing pollutants are prohibited, unless they are regulated under a separate NPDES permit; certain types of non-storm water containing insignificant amount of pollutants are exempt as indicated in Discharge Limitations/Prohibitions, Section II. C. of this Order.

23. Order No. 90-104 and Order No. 96-30 required the Permittees to: (1) develop and implement the DAMP and Urban Runoff and Receiving Water monitoring and reporting programs; (2) eliminate illegal discharges and illicit connections to the MS4s; and (3) enact the necessary legal authority to effectively prohibit such illegal discharges and illicit connections. The overall goal of these requirements was to reduce pollutant loading to surface waters from Urban Runoff to the MEP. The DAMP outlines the major programs and policies for controlling pollutants in Urban Runoff and the DAMP was approved by the Executive Officer on January 18, 1994. Since then, the Urban Runoff monitoring program has been expanded and the DAMP continues to be a dynamic document. This Order requires the Permittees to continue to implement the BMPs listed in the DAMP, and update or modify the DAMP, when appropriate, consistent with the MEP and other applicable standards; and to continue to effectively prohibit illegal discharges and illicit connections to their respective MS4s.

24. A revised Water Quality Control Plan (the "Basin Plan") was adopted by the Regional Board and became effective on January 24, 1995. The Basin Plan defines the numeric and narrative water quality objectives and beneficial uses of the receiving waters in the Region. These beneficial uses include municipal and domestic supply, agricultural supply, industrial service supply, groundwater recharge, hydropower generation, water contact recreation, non-contact water recreation and sportfishing, warm freshwater habitat, cold freshwater habitat, preservation of biological habitats of special significance, wildlife habitat and preservation of rare, threatened, or endangered species. The Basin Plan also incorporates by reference all State Board water quality control plans and policies.

25. The ultimate goal of the MS4 permit is to protect these beneficial uses of the Receiving Waters by ensuring that the flows from MS4s do not cause or contribute to an exceedance of "water quality objectives" (as defined in Appendix 4, Glossary) for the Receiving Waters. The DAMP identifies programs and policies, including BMPs, to achieve this goal. These BMPs are organized into two components: BMPs for existing facilities and BMPs for new development. Both components include regulatory activities, public education programs, solid waste management, and operations and maintenance activities.

[5] Based upon a field investigation report of the Storm Drain Outlets into the Santa Ana River conducted by the RCFCD&WCD and dated May 28, 2002.

26. There are pollutants in Urban Runoff from privately owned and operated facilities such as residences, businesses and commercial establishments and public and private institutions. A successful NPDES MS4 permit program should include the participation and cooperation of public entities, private businesses, and public and private institutions. Therefore, public education is a critical element of the DAMP. As the population increases in the Permit Area, it will be even more important to continue to educate the public regarding the impact of human activities on the quality of Urban Runoff.

27. The Co-Permittees have developed conditions of approval for projects requiring coverage under the Construction Activity Permits for maps or permits requiring discretionary approval that are to be satisfied prior to issuing a grading or building permit for construction sites of five acres or more. After March 10, 2003, these conditions of approval will be extended to construction sites on one (1) acre or more, consistent with the acreage criteria of the current Construction Activity Permits.

28. This Order requires the Permittees to continue to implement the BMPs listed in the approved DAMP and to continue to effectively prohibit illegal discharges and illicit connections to their respective MS4s. One of the major elements of the DAMP is a Storm Water/Urban Runoff Management and Discharge Control Ordinance and each of the Co-Permittees has adopted such an ordinance and ordinances addressing grading and erosion control (collectively, the "Storm Water Ordinance"). The purpose of each Storm Water Ordinance is to prohibit pollutant discharges in the Permittees respective MS4s and to regulate illicit connections and non-storm water discharges to said MS4s.

29. The California Constitution and Government Code create in the Co-Permittees planning police powers that mandate that the Co-Permittees review and condition new development consistent with the Subdivision Map Act, CEQA, and their respective general plans, ordinances, and resolutions to ensure the general public's health and safety. If these constitutional and statutory mandates are not properly implemented and local ordinances and resolutions are not properly enforced, there is a creditable potential that new development could result in the discharge of pollutants to the Receiving Waters within the Permit Area from Urban Runoff.

30. This Order requires the Permittees to examine the source of pollutants in Urban Runoff from those activities that the Permittees conduct, approve, regulate and/or for which they issue a license or permit. The Permittees are required to ensure, to the MEP, that Urban Runoff from the MS4s do not cause or contribute to an exceedance of "Receiving Water Quality Objectives", as defined in the Basin Plan.

31. Each Co-Permittee conducts inspections of those construction sites for which it has issued either a grading or building permit to determine compliance with its ordinances, regulations, and codes, including its Storm Water Ordinance. Each Co-Permittee, consistent with its ordinances, rules and regulations, inspect each site for which a grading or building permit has been issued for compliance with the conditions of approval governing the permit. These inspections have been expanded by several of the Co-Permittees to survey and address issues related to prevention of Urban Runoff and to determine that a site has secured coverage under the General Construction Activity Storm Water Permit. Once a certificate of occupancy has been issued, the Co-Permittees have limited jurisdiction to inspect the site on an ongoing basis. The Permittees have established the "Enforcement/Compliance Strategy,"

dated December 20, 2001 (the "E/CS") that addresses compliance strategies with regard to industrial, and commercial facilities and construction sites. In addition, as part of their Urban Runoff management activities, the Principal Permittee and the County entered into an agreement, dated August 10, 1999 by which they have developed and funded, in cooperation with the Riverside County Environmental Health Department, the "Compliance Assistance Program" (the "CAP") which includes a storm water survey component as part of existing inspections of hazardous material handlers and retail food service activities. The initial phase of the CAP consisted primarily of educational outreach to the inspected facilities. The CAP has entered a second phase, which involves a detailed storm water compliance survey for each facility that must secure a "hazardous materials" (as defined in Appendix 4, Glossary) permit for either storing, handling or generating such materials (there are approximately 5,500 facilities of which approximately 2,300 are inspected annually, and all facilities are inspected at least once during a two year cycle) and retail food facilities (there are approximately 6,750 facilities, all of which are inspected 1 to 3 times annually). The type of industrial/commercial establishment that is inspected includes, but is not limited to, automobile mechanical repair, maintenance, fueling, or cleaning operation, automobile or other vehicle body repair or painting operations, and painting or coating operations. Any completed surveys that indicate non-compliance are forwarded to the appropriate jurisdiction's code enforcement division. In addition, the cities of Corona and Riverside, which operate publicly owned treatment works ("POTW"), in combination conduct annually on average, approximately 4,400 wastewater pre-treatment inspections, on a variety of industrial and commercial establishments, including, but not limited to, retail food establishments, car washes, and carpet, drape & furniture cleaning establishments. The Permittees have agreed to notify Regional Board staff when conditions are observed during such inspections that appear to be in violation of either the General Storm Water Permits or a permit issued by the Regional Board.

32. The Permittees own/operate facilities where industrial or related activities take place that may have an impact on Urban Runoff quality. Some of the Permittees also enter into contracts with outside parties to carry out activities that may also have an impact on Urban Runoff quality. These facilities and related activities include, but are not limited to, street sweeping, catch basin cleaning, maintenance yards, vehicle and equipment maintenance areas, waste transfer stations, corporation and storage yards, parks and recreational facilities, landscape and swimming pool maintenance activities, MS4 maintenance activities and the application of herbicides, algaecides and pesticides. As part of Order 96-30, the Permittees were required to assess public agency activities and facilities for potential impact to Urban Runoff quality and develop their agency-specific "Municipal Facility Strategy". This Order requires the Permittees to continue to implement BMPs that are reducing pollutant discharges from those activities/facilities found to be significant sources of pollutants in Urban Runoff. This Order prohibits non-storm water discharges from facilities owned or operated on behalf of the Permittees unless the discharges are exempt under the Discharge Limitations/Prohibitions Section II. C. of this Order or are permitted by the Regional Board under an individual NPDES permit.

33. An effective monitoring program characterizes Urban Runoff discharges, identifies problem areas, and determines the impact of Urban Runoff on Receiving Waters and the effectiveness of BMPs. The Principal Permittee administers the Consolidated Program for Water Quality

Monitoring[6] (the "CMP") for the Permittees. The CMP includes wet and dry weather monitoring of MS4 outfalls and Receiving Waters. The DAMP (at page 2-4, 1993) indicates that lead, copper, manganese, zinc, BOD, hardness, and nitrates for some of the dry weather samples analyzed exceeded the water quality objectives in samples collected prior to the DAMP. These and other water quality indicators are tabulated on page 2-6 of the DAMP.

34. The Permittee's 2000 Annual Report (Pursuant to each NPDES MS4 permit issued by the Regional Board to the Permittees, there is a requirement that an annual report (the "Annual Report") be filed with the Regional Board on or before each November 30th) summarized wet weather monitoring data collected between July 1990 and July 2000. This summary shows that the average concentration values for a wide array of pollutants do not exceed the Receiving Water Quality Objectives. However, for numerous constituents, the summary contains several maximum-recorded concentrations that exceed these Receiving Water Quality Objectives. The summary also includes data from the period prior to implementation of the DAMP approved by the Executive Officer in January 1994.

35. In general, the data as presented in the 2000 Annual Report are inconclusive in regard to identification of the pollutant trends and compliance or non-compliance with "Receiving Water Limitations"[7] in various drainage areas represented by the monitoring stations. Consequently, this Order requires the Permittees, in consultation with Regional Board staff, to re-evaluate prior monitoring data to identify the areas with elevated pollutant concentrations to focus their source reduction efforts. Also, this Order requires the Permittees to revise the CMP to provide more effective data to support Urban Runoff management. The Permittees will continue their current monitoring efforts on those priority areas pending development and approval of the revised CMP.

36. This Order requires the Permittees to make all necessary revisions to an agreement entitled "NPDES Stormwater Discharge Permit – Implementation Agreement" dated November 12, 1996 (the "Implementation Agreement"). The Implementation Agreement establishes the responsibilities of each party and a funding procedure for the shared costs.

37. By January 1, 2003, the State Board is required by Water Code Section 13383.5 (Stats. 2001, c. 492 (S.B. 72)) to develop a statewide municipal storm water (Urban Runoff) monitoring and reporting program. Once this statewide program has been developed, the Permittees will be required to develop a revised monitoring and reporting program as specified in this Order and consistent with new requirements developed by the State Board.

38. In addition to the Regional Board, a number of other stakeholders are involved in the management of the water resources of the Region. These include, but are not limited to, the incorporated cities in the Region, POTWs, the three counties, and the Santa Ana Watershed Project Authority and its member agencies. The entities listed in Appendix 2 are considered as potential dischargers of Urban Runoff in the Permit Area. It is expected that these entities will also work cooperatively with the Permittees to manage Urban Runoff. The Regional

[6] Consolidated Program for Water Quality Monitoring, Riverside County Flood Control and Water Conservation District, March 1994.
[7] Receiving Water Limitations are requirements included in this Order issued by the Board to assure that the regulated discharge does not violate water quality standards established in the Basin Plan at the point of discharge to waters of the State.

Board, pursuant to 40 CFR 122.26(a), has the discretion and authority to require non-cooperating entities to participate in this Order or to issue individual storm water permits.

39. Cooperation and coordination among the stakeholders (regulators, Permittees, the public, and other entities) are critical to optimize the use of limited resources and ensure economical management of the watershed. Recognizing this fact, this Order focuses on watershed management and seeks to integrate the programs of the stakeholders, especially the holders of the three MS4 permits within the Region.

40. The Regional Board recognizes that a watershed management program should integrate related programs, including the Urban Runoff program and TMDL processes.

41. Illegal discharges to the MS4s can contribute to "contamination" (as defined in Appendix 4, Glossary) of Urban Runoff and other surface waters. The RCFC&WCD was required by Order No. 90-104 to conduct an inspection of underground storm drains and only one illicit connection could be identified. Open channels and other aboveground elements of the MS4s are inspected for evidence of illegal discharges as an element of routine maintenance by the Permittees. The Permittees also developed a program to prohibit illegal discharges and illicit connections to their MS4s. Continued surveillance and enforcement of these programs are required to eliminate illicit connections and illegal discharges. The Permittees have a number of procedures in place to eliminate illicit connections and illegal discharges to the MS4s, including construction, commercial, and industrial facility inspections, drainage facility inspections, water quality monitoring and reporting programs, and public education.

42. The Permittees have the authority to control pollutants in Urban Runoff discharges, to prohibit illicit connections and illegal discharges, to control spills, and to require compliance and carry out inspections of the MS4s within their respective jurisdictions. The Co-Permittees have been extended necessary legal authority through California statutes and local charters. Consistent with this statutory authority, each of the Co-Permittees have adopted their respective Storm Water Ordinances. The Co-Permittees are required by this Order to review their respective Storm Water Ordinances and other ordinances, regulations, and codes adopted by them to determine whether the language of said ordinances, regulations, and codes needs to be modified or expanded to allow for enforcement actions, including civil and/or criminal penalties, to be brought by each Co-Permittee consistent with the provisions of this Order.

43. "Pollution prevention" (as defined in Appendix 4, Glossary) techniques implemented to the MEP, appropriate planning review procedures, early identification of potential Urban Runoff impacts and mitigation measures may reduce pollution associated with Urban Runoff. The Co-Permittees consider these impacts and appropriate mitigation measures in their respective, land use approval processes and CEQA review processes for development projects to insure consistency with their respective general plans. This Order requires the Co-Permittees to review their respective CEQA review processes, general plans, zoning ordinances, and related regulations and codes to determine the need for any revisions.

44. The legislative history and the preamble to the federal storm water regulations indicate that Congress and the USEPA were aware of the difficulties in regulating Urban Runoff solely through traditional end-of-pipe treatment. However, it is the Regional Board's intent that this

Order requires the implementation of BMPs to reduce, to the MEP, the discharge of pollutants in Urban Runoff from the MS4s in order to support attainment of water quality standards. This Order, therefore, includes Receiving Water Limitations based upon water quality objectives, prohibiting the creation of nuisances and requiring the reduction of water quality impairment in the Receiving Waters. In accordance with Section 402 (p) of the CWA, this Order requires the Permittees to implement control measures that will reduce pollutants in Urban Runoff discharges to the MEP. The Receiving Water Limitations similarly require the implementation of control measures to protect beneficial uses and attain water quality objectives of the Receiving Waters.

45. The Regional Board finds that the unique aspects of the regulation of Urban Runoff discharges through MS4s, including, but not limited to, the intermittent nature of discharges, difficulties in monitoring and limited physical control over the discharge, will require adequate time to implement and evaluate the effectiveness of BMPs. Therefore, this Order includes a procedure for determining whether Urban Runoff discharges are causing or contributing to exceedances of Receiving Water Limitations and for evaluating whether the DAMP must be revised in order to comply with this aspect of this Order. This Order establishes an iterative process to achieve compliance with the Receiving Water Limitations.

46. Less than one fifth (1/5) of the entire acreage within Riverside County drains into water bodies within the Permit Area. Sixty-seven percent of Riverside County's population resides within the Permit Area. The San Diego and the Colorado River Basin Regional Water Quality Control Boards regulate Urban Runoff from those portions of Riverside County outside of the Permit Area.

47. The Santa Ana Watershed is one of the major watersheds within Southern California. This watershed is divided into three sub-watersheds: the "Lower Santa Ana," the "Upper Santa Ana", and the "San Jacinto". The Lower Santa Ana sub-watershed (downstream from Prado Basin) includes the north half of Orange County and the Upper Santa Ana sub-watershed includes the southwestern corner of San Bernardino County and the northwestern corner of Riverside County. The San Jacinto sub-watershed includes the northwest corner of Riverside County south of the Upper Santa Ana sub-watershed.

48. The Santa Ana River is the major receiving water in the Permit Area. During non-storm periods the flow in the River is dominated by effluent from POTWs. POTW discharges are regulated under permits issued by the Regional Board. In addition, the quality of the Santa Ana River within the Upper Santa Ana sub-watershed is greatly influenced by agricultural activities. Urban Runoff from the Permit Area constitutes a minor component of the dry weather flow in the Upper Santa Ana and San Jacinto sub-watersheds of the Santa Ana River.

49. Generally, the portion of the Upper Santa Ana sub-watershed located within San Bernardino County drains to the portion of the Upper Santa Ana sub-watershed within Riverside County and the portion of the Upper Santa Ana sub-watershed located within Riverside County and the San Jacinto sub-watershed drain to Orange County through the Prado Basin and Dam. Prado Dam detains the flows of the Upper Santa Ana and San Jacinto sub-watersheds, specifically Reaches 3 and 4 of the Santa Ana River, and supports an extensive man-made wetlands system, that provides treatment of the detained water. Most of the flow in the

Santa Ana River is released from Prado Dam and recharged into the ground water in Orange County. However, as a result of infrequent heavy storm events, flows leaving Prado Dam may continue to coastal waters of the Pacific Ocean.

50. Water from rainfall, snow melt runoff, and surfacing ground water from various areas within the Permit Area either discharge directly to the Santa Ana River or to watercourses tributary to the Santa Ana River. Other major rivers within the Permit Area include the San Jacinto River and Temescal Creek. The San Jacinto Mountain areas drain into the San Jacinto River, which discharges into Canyon Lake and thence into Lake Elsinore. Any overflow from Lake Elsinore is tributary to Temescal Creek, which flows into the Santa Ana River at the Prado Basin. Overflow from Lake Elsinore occurs infrequently, only once every 12 to 15 years.

51. The requirements contained in this Order are necessary to implement the Basin Plan. This Order does not contain "numeric effluent limitations" (as defined in Appendix 4, Glossary) for any constituent because the impact of the Urban Runoff discharges on the water quality of the Receiving Waters has not yet been fully determined and because the State Board and the USEPA have determined that numeric effluent limits are not required in the MS4 permits. Continuation of water quality/biota monitoring and analysis of the data are essential to make that determination. The Basin Plan or amendments thereto, may be grounds for the Permittees to revise the DAMP.

52. The Permittees will be required to comply with future water quality standards or discharge requirements, which may be imposed by the USEPA or State of California prior to the expiration of this Order. This Order may be reopened to include WLAs or LAs to address pollutants in Urban Runoff causing or contributing to the impairments in Receiving Waters and/or other requirements developed and adopted by the Regional Board.

53. The Permittees may petition the Regional Board to issue a separate NPDES permit to any discharger of non-storm water into MS4s that they own or operate.

54. The Permittees have implemented programs to control litter, trash, and other anthropogenic materials in Urban Runoff. In addition to the municipal ordinances prohibiting litter, the Permittees should continue to participate or organize a number of other programs such as solid waste collection programs, household hazardous waste collections, hazardous material spill response, catch basin cleaning, additional street sweeping, and recycling programs to reduce litter and illegal discharges. These programs should effectively address urban sources of these materials. This Order includes requirements for continued implementation of these programs for litter, trash, and debris control.

55. The Regional Board recognizes the importance of watershed management initiatives and regional planning and coordination in the development and implementation of programs and policies related to Receiving Water quality protection. A number of such efforts are underway in which the Permittees are active participants. This Order encourages continued participation in such programs and policies. The Regional Board also recognizes that in certain cases, diversion of funds targeted for certain monitoring and reporting programs to regional monitoring programs may be necessary. The Executive Officer is authorized to approve, after proper public notification and consideration of comments received, the

watershed management initiatives and regional planning and coordination programs and regional monitoring programs. The Permittees are required to submit all documents, where appropriate, in an electronic format acceptable to the Executive Officer. These documents will be posted at the Regional Board's website and interested parties will be notified. In addition, the website will include the administrative and civil procedures to appeal any decision made by the Executive Officer.

56. The storm water regulations require public participation in the development and implementation of the Urban Runoff management program. As such, the Permittees are required to solicit and consider all comments received from the public and submit copies of the comments to the Executive Officer with the Annual Reports due each November 30th. In response to public comments, the Permittees may modify reports, plans, or schedules prior to submittal to the Executive Officer.

57. In accordance with Water Code Section 13389, the issuance of Waste Discharge Requirements for this discharge is exempt from those provisions of CEQA contained in Chapter 3 (commencing with Section 21100), Division 13 of the California Public Resources Code.

58. The Regional Board has considered anti-degradation requirements, pursuant to 40 CFR 131.12 and State Board Resolution No. 68-16, for this discharge. The Regional Board finds that the Urban Runoff discharges regulated under this Order are consistent with the federal and state anti-degradation requirements and a complete anti-degradation analysis is not necessary. This Order requires the continued implementation of programs and policies to reduce the discharge of pollutants in Urban Runoff. This Order includes additional requirements to control the discharge of pollutants in Urban Runoff from "Significant Redevelopment", as defined in Section VIII.B.1.a., and "New Development", as defined in Section VIII.B.1.b.

59. The Regional Board has notified the Permittees and interested parties of its intent to issue Waste Discharge Requirements for Urban Runoff and has provided them with an opportunity to submit their written views and recommendations.

60. The Regional Board, in a public hearing, heard and considered all comments pertaining to the discharge of Urban Runoff and to the tentative requirements.

IT IS HEREBY ORDERED that the Riverside County Flood Control and Water Conservation District, the County of Riverside, and the incorporated cities of Beaumont, Calimesa, Canyon Lake, Corona, Hemet, Lake Elsinore, Moreno Valley, Murrieta, Norco, Perris, Riverside, and San Jacinto, in order to meet the provisions contained in Division 7 of the Water Code and regulations adopted thereunder, and the provisions of the CWA, as amended, and the regulations and guidelines adopted there under, shall comply with the following:

I. RESPONSIBILITIES:

A. Responsibilities of the Principal Permittee:

1. The Principal Permittee shall be responsible for managing the overall Urban Runoff program and shall:

   a. Coordinate revisions to the DAMP.

   b. Implement management programs, monitoring and reporting programs, and related plans as required by this Order.

   c. Conduct chemical and biological water quality monitoring and hydrographic monitoring as required by the Executive Officer.

   d. Conduct inspections and maintain the MS4s over which it has jurisdiction.

   e. Review and revise, if necessary, those agreements to which it is a party and those regulations and policies it deems necessary to provide adequate legal authority to maintain the MS4s for which it has jurisdiction and to take those actions required of it by this Order and the Federal Storm Water Regulations (see Section V "Legal Authority/Enforcement", below);

   f. To cause appropriate enforcement actions against illegal discharges to the MS4 for which it has jurisdiction be taken and pursued as necessary to ensure compliance with storm water management programs, implementation plans, and regulations and policies, including physical elimination of undocumented connections and illegal discharges (see Section V - "Legal Authority/Enforcement", below);

   g. Respond or cause the appropriate entity or agency to respond to emergency situations such as accidental spills, leaks, and illegal discharges/illicit connections to prevent or reduce the discharge of pollutants to its MS4s and to the Waters of the U. S.

   h. Prepare, coordinate the preparation of, and submit to the Executive Officer, those reports and programs necessary to comply with this Order.

2. The activities of the Principal Permittee should also include, but not be limited to, the following:

   a. Establish a Management Steering Committee (the "Management Steering Committee") as described in the ROWD to address Urban Runoff management policies for the Permit Area and coordinate the review, and necessary revisions to the DAMP and Implementation Agreement. The Management Steering Committee will meet at least quarterly or more frequently as determined by the chairperson.

   b. Coordinate and conduct Technical Committee (the "Technical Committee") meetings, at least ten times per year. The Technical Committee shall direct the development of the DAMP, and coordinate the implementation of the overall

Urban Runoff program, as described in the ROWD. The Technical Committee will consist of one or more representatives from each Permittee.

c. Will take the lead role in initiating and developing area-wide programs and activities necessary to comply with this Order.

d. Coordinate activities and participate in committees/subcommittees formed to comply with this Order.

e. Coordinate with the Regional Board and Co-Permittees the implementation of this Order, including the submittal of all reports, plans, and programs as required under this Order.

f. Provide technical and administrative support to the Co-Permittees, including informing them of the status of known pertinent municipal programs, pilot projects, and research studies.

g. Coordinate with the Co-Permittees the implementation of Urban Runoff quality management programs, monitoring and reporting programs, implementation plans, public education, other pollution prevention measures, household hazardous waste collection, and all BMPs outlined in the DAMP and take other actions as may be necessary to meet the MEP.

h. Gather and disseminate information on the status of statewide Urban Runoff programs and evaluate the information for potential use in the execution of this Order. Hold workshops focused on Urban Runoff regulatory requirements, BMPs, and other related topics.

i. Compile information provided by the Co-Permittees and determine their effectiveness in attaining Receiving Water quality standards. This determination shall include a comparative analysis of monitoring data to the applicable water quality objectives for Receiving Waters as specified in Chapter 4 of the Basin Plan. A pollutant source investigation and control plan shall be performed when elevated pollutant levels are identified.

j. Solicit and coordinate public input for major changes to the Urban Runoff management programs and the implementation thereof.

k. Coordinate the development and implementation of procedures, and performance standards, to assist in the consistent implementation of BMPs, as well as Urban Runoff management programs, among the Co-Permittees.

l. Participate in watershed management programs and regional and/or statewide monitoring and reporting programs.

B. Responsibilities of the Co-Permittees:

1. Each Co-Permittee shall be responsible for managing the Urban Runoff program within its jurisdiction and shall:

   a. Continue to maintain adequate legal authority to control the contribution of pollutants to their MS4s and enforce those authorities.

   b. Conduct inspections of and maintain its MS4s in accordance with the criteria developed pursuant to Section XI.D, below.

   c. Continue to implement management programs, monitoring and reporting programs, all BMPs listed in the DAMP, and related plans as required by this Order and take such other actions as may be necessary to meet the MEP standard.

   d. Continue to seek sufficient funding for the area-wide Urban Runoff management plan, local Urban Runoff program management, Urban Runoff enforcement, public outreach and education activities and other Urban Runoff related program implementation.

   e. Continue to coordinate among their internal departments and agencies, as appropriate, to facilitate the implementation of this Order and the DAMP.

   f. Continue to pursue enforcement actions as necessary within its jurisdiction for violations of Storm Water Ordinances, and other elements of its Urban Runoff management program.

   g. Respond to or arrange for the appropriate entity or agency to respond to emergency situations such as accidental spills, leaks, illegal discharges/illicit connections, etc. to prevent or reduce the discharge of pollutants to their MS4s and the Waters of the U.S.

2. The Co-Permittees' activities should include, but not be limited to, the following:

   a. Participate in the Management Steering Committee and the Technical Committee in accordance with Section XIII.D. of this Order.

   b. Conduct and coordinate with the Principal Permittee surveys and monitoring needed to identify pollutant sources and drainage area characteristics.

   c. Prepare and submit reports to the Principal Permittee and/or the Regional Board in a timely manner.

   d. Review, comment, approve, and implement plans, strategies, management programs, monitoring and reporting programs, as developed by the Principal Permittee, Technical Committee, or the Management Steering Committee to comply with this Order.

e. Participate in subcommittees formed by the Principal Permittee, Technical Committee, or the Management Steering Committee to comply with this Order.

f. Submit up-to-date MS4 maps to the Principal Permittee. If necessary, these maps should be revised on an annual basis and the revised maps should be submitted to the Principal Permittee with the information required for preparation of the Annual Report.

g. Prepare and submit to the Principal Permittee in a timely manner specific reports/information, related to the Co-Permittees' Urban Runoff program, necessary to develop an Annual Report for submittal to the Executive Officer.

II. DISCHARGE LIMITATIONS/PROHIBITIONS:

A. In accordance with the requirements of 40 CFR 122.26(d)(2)(i)(B) and 40 CFR 122.26(d)(2)(i)(F), the Permittees shall continue to prohibit illicit connections and illegal discharges (non-storm water) from entering their respective MS4s.

B. The discharge of Urban Runoff from each Permitee's MS4s to the Waters of the U. S. containing pollutants that have not been reduced to the MEP is prohibited.

C. The Permittees shall continue to effectively prohibit the discharge of non-storm water into their respective MS4s and to the Waters of the U. S. unless such discharge is authorized by a separate NPDES permit or specifically allowed by the following provisions. The Permittees need not prohibit the discharges identified below. If, however, any of the following discharges are identified by either a Permittee or the Executive Officer as a significant source of pollutants, coverage under the Regional Board's Order No. 98-67 (De Minimus permit)[8] may be required.

1. Discharges covered by a NPDES permit, Waste Discharge Requirements, or waivers issued by the Regional or State Board. Unless a Permittee is the discharger, the Permittees shall not be responsible for any exceedances of Receiving Water Limitations associated with such discharges;

2. Discharges from potable water line flushing and other potable water sources;

3. Emergency water flows (i.e., flows necessary for the protection of life and property) do not require BMPs and need not be prohibited. However, appropriate BMPs shall be considered where practicable when not interfering with emergency public health and safety issues;

4. Discharges from landscape irrigation, lawn/garden watering and other irrigation waters;

5. Air conditioning condensate;

[8] General Waste Discharge Requirements for discharges to surface waters, which pose an insignificant (de minimus) threat to water quality Order NO. 98-67, NPDES No. CAG998001.

6. Diverted stream flows;

7. Rising ground waters and natural springs;

8. Groundwater infiltration (as defined in 40 CFR 35.2005(20)) and "uncontaminated pumped groundwater" (as defined in Appendix 4, Glossary);

9. Passive foundation drains;

10. Passive footing drains;

11. Water from crawl space pumps;

12. Non-commercial vehicle washing, (e.g. residential car washing (excluding engine degreasing) and car washing fundraisers by non-profit organization);

13. Flows from riparian habitats and wetlands;

14. Dechlorinated swimming pool discharges;

15. Waters not otherwise containing wastes as defined in Water Code Section 13050 (d); and

16. Other types of discharges identified and recommended by the Permittees and approved by the Regional Board.

D. The Regional Board may issue Waste Discharge Requirements for discharges exempted from NPDES requirements, such as agricultural irrigation waters, if identified to be a significant source of pollutants.

E. The Regional Board may add categories of non-Urban Runoff discharges that are not significant sources of pollutants or remove categories of non-Urban Runoff discharges listed in Section II.C. above, based upon a finding that the discharges are a significant source of pollutants.

F. When types of discharges listed in Subsections II.C.2-16, above, are identified as a significant source of pollutants to the Waters of the U.S., a Permittee shall either: prohibit the discharge category from entering its MS4 or ensure that "structural" and "source control BMPs" (as defined in Appendix 4, Glossary) are implemented to reduce or eliminate pollutants resulting from the discharge. The Permittees shall evaluate the permitted discharges, as listed in Subsection II.C.1., above, to their MS4s to determine if any are a significant source of pollutants to their MS4s and notify the Executive Officer if any are a significant source of pollutants to their MS4s.

G. The Permittees shall continue to reduce the discharge of pollutants, including trash and debris, from their respective MS4s to Receiving Waters to the MEP.

H. Discharges from the MS4s shall be in compliance with the discharge prohibitions contained in Chapter 5 of the Basin Plan.

I. Discharge of Urban Runoff from a Permittee's MS4 shall not cause or contribute to a condition of nuisance as the term is defined in Section 13050 of the Water Code.

III. RECEIVING WATER LIMITATIONS

A. Urban Runoff discharges from the Permittees' MS4s shall not cause or contribute to exceedances of Receiving Water quality standards (as defined by "beneficial uses" and "water quality objectives" in the Basin Plan and amendments thereto) for surface waters or ground waters.

B. The DAMP and its components shall be designed to achieve compliance with Receiving Water Limitations associated with discharges of Urban Runoff. It is expected that compliance with Receiving Water Limitations will be achieved through an iterative process and the application of increasingly more effective BMPs.

C. The Permittees shall comply with Sections II and III of this Order through timely implementation of control measures and other actions to reduce pollutants in Urban Runoff in accordance with the DAMP and other requirements of this Order, including modifications thereto.

D. If exceedance(s) of water quality standards due to Urban Runoff discharges persist, notwithstanding implementation of the DAMP and other requirements of this Order, the Permittees shall assure compliance with Sections II.B and III of this Order by complying with the following procedure:

1. Upon a determination by either the Permittees or the Executive Officer that the discharges from the MS4 systems are causing or contributing to an exceedance of an applicable Water Quality Standard, the Permittees shall within two (2) working days, provide oral or e-mail notice to Regional Board staff of the location within its jurisdiction where the exceedance occurred and describe the nature of the exceedance. Following oral or e-mail notification, a written report must be submitted to the Executive Officer within ten (10) calendar days of becoming aware of the situation. The report submitted for review and approval shall, at a minimum, describe the BMPs that are currently being implemented and the additional BMPs that will be implemented to prevent or reduce those pollutants that are causing or contributing to the exceedance of the applicable water quality standards. Alternatively, if the exceedances are due to discharges to the MS4 from activities or areas not under the jurisdiction of the Permittees, the Permittees shall provide documentation of these discharges in the subject report, consistent with Subsection D.6., below.

2. Determination of the effect of Urban Runoff discharges from the MS4s on Receiving Water quality standards shall include a comparative analysis of the Permittees' monitoring data to the applicable water quality objectives for the Receiving Waters specified in Chapter 4 of the Basin Plan.

3. The report required by Subsection D.1., above, shall address the causes of the receiving water quality standard exceedance, and the technical and economic feasibility of those BMPs available to the Permittees to reduce or eliminate the exceedance. Said report may be incorporated in the annual update to the DAMP, unless the Executive Officer directs, in writing, an earlier submittal. The report shall include a pollution source investigation, a control plan and an implementation schedule. The Executive Officer may by written notice require modifications to the report. If required, such modifications shall be submitted within thirty (30) calendar days of receipt of said written notice

4. Within ninety (90) calendar days following approval by the Executive Officer of the report required by Subsection D.1., above, the Permittees shall revise the DAMP and their monitoring and reporting programs to incorporate the approved modified or additional BMPs that have been or are to be implemented, and the implementation schedule.

5. The revised DAMP and monitoring program are to be implemented in accordance with the approved schedule.

6. If the exceedances are solely due to discharges to the MS4 that are outside the Permittees jurisdiction or control, the Permittees shall, within two (2) working days of becoming aware of the situation, provide oral or e-mail notice to Regional Board staff of the determination of the exceedance and provide written documentation of these discharges to the Executive Officer within ten (10) calendar days of becoming aware of the situation.

7. So long as the Permittees have complied with the procedures set forth above and are implementing the revised DAMP, the Permittees do not have to repeat the same procedure for continuing or recurring exceedances of the same Receiving Water Limitations unless the Executive Officer determines it is necessary to develop additional BMP's and provides written notice to the Permittees of this determination.

IV. IMPLEMENTATION AGREEMENT

A. Within six (6) months of this Order's adoption, the existing Implementation Agreement shall be revised to include the city of Murrieta. A copy of the signature page and revisions to the Agreement shall be included in the Annual Report.

B. No later than November 30th of each year, the Permittees shall evaluate their Urban Runoff management programs and the Implementation Agreement and determine the need, if any, for revision. The Annual Report shall include the findings of this review and a schedule for any necessary revision(s).

V. LEGAL AUTHORITY/ENFORCEMENT:

A. The Permittees shall continue to maintain adequate legal authority to control the contribution of pollutants to the MS4s by Urban Runoff and enforce those authorities.

B. The Permittees shall continue to take appropriate enforcement actions against violators of their Storm Water Ordinances, in accordance with the Federal Storm Water Regulations (40CFR, Part 122.26(d)(2)(I)(A-F)), and adopted/established guidelines and procedures in the E/CS.

C. Within six (6) months of this Order's adoption, the Permittees shall evaluate their ordinances, regulations, rules and codes to determine if it has provided its staff authority to impose administrative fines for violations of its Storm Water Ordinance.

D. Co-Permittees' ordinances or other local regulatory procedures shall include sanctions to ensure compliance. Sanctions shall include but shall not be limited to: verbal and/or written warnings, notice of violation or non-compliance, obtaining an administrative compliance, stop work or cease and desist order, a civil citation or injunction, the imposition of monetary penalties or criminal prosecution (infraction or misdemeanor). If the Co-Permittee's current ordinances or codes do not provide for the imposition of these civil or criminal penalties for violations of its Storm Water Ordinances, the Co-Permittee shall enact such ordinances within eighteen (18) months of this Order's adoption.

E. The Permittees shall continue to provide notification to Regional Board staff regarding Urban Runoff related information gathered during site inspections of construction, and industrial sites regulated by the General Storm Water Permits or San Jacinto Watershed Construction Activities Permit and at sites that should be regulated under these Permits. The notification should include observed violations of these permits, prior history of violations, enforcement actions taken by the Permittee, and other relevant information. In addition, Sections IX, X, and XII of this Order address additional notification requirements for construction, industrial and commercial sites not covered under the General Storm Water Permits.

F. Within twelve (12) months of this Order's adoption, and annually thereafter in November, the Permittees shall provide a report containing a review of their Storm Water Ordinances and their ordinance enforcement practices to assess their effectiveness in prohibiting non-exempt, non-storm water discharges to the MS4s (the Permittees may propose appropriate control measures in lieu of prohibiting these discharges, where the Permittees are responsible for ensuring that dischargers adequately maintain those control measures). At a minimum, the following types of non-exempt, non-storm water discharges and wastes shall be considered:

   1. Sewage, where a Co-Permittee operates a POTW and associated sewage collection system;

   2. Wash water resulting from the hosing or cleaning of gas stations, and other types of automobile service stations;

3. Discharges resulting from the cleaning, repair, or maintenance of equipment, machinery, or facilities, including motor vehicles, concrete mixing equipment, portable toilet servicing, etc.;

4. Wash water from mobile auto detailing and washing, steam and pressure cleaning, carpet cleaning, etc.;

5. Water from cleaning of municipal, industrial, and commercial areas including parking lots, streets, sidewalks, driveways, patios, plazas, work yards and outdoor eating or drinking areas, containing chemicals or detergents, and without prior sweeping, etc;

6. Runoff from material storage areas or uncovered receptacles that contain chemicals, fuels, grease, oil, or other hazardous materials;

7. Discharges of runoff from the washing of toxic materials from paved or unpaved areas;

8. Discharges from pool or fountain water containing chlorine, biocides, or other chemicals; pool filter backwash containing debris and chlorine;

9. Pet waste, yard waste, debris, sediment, etc;

10. Restaurant or food processing facility wastes such as grease, floor mat and trash bin wash water, food waste;

G. Within eighteen (18) months of this Order's adoption, each Permittee shall submit a statement (signed by its legal counsel) that the Permittee has obtained all necessary legal authority to comply with this Order through adoption of ordinances and/or municipal code modifications.

VI. ILLICIT CONNECTIONS/ILLEGAL DISCHARGES; LITTER, DEBRIS AND TRASH CONTROL

A. The Co-Permittees shall continue to prohibit illicit connections and illegal discharges to the MS4s through their Storm Water Ordinances and the Principal Permittee shall do so through its statutory authority. In addition, the Permitees shall continue to implement and improve routine inspection and monitoring and reporting programs for their MS4s. If routine inspections or dry weather monitoring indicate illicit connections or illegal discharges, they shall be investigated and eliminated or permitted within sixty (60) calendar days of receipt of notice by its staff or from a third party. A summary of these actions shall be submitted annually beginning with the 2003-2004 Annual Report.

B. The Permittees upon being put on notice by staff or a third party shall immediately upon becoming aware of the circumstances (within 24 hours of receipt of notice by its staff or from a third party) investigate all spills, leaks, and/or illegal discharges to the MS4s. Based upon their assessment and as specified below, the Permittees shall report as follows:

1. All discharges that endanger human health or the environment:

a. By phone to the Office of Emergency Services (the "OES") at (800-852-7550) and to the Executive Officer at (909-782-3238). Alternatively, the report to the Executive Officer may be done by e-mail at (sw@rb8.swrcb.ca.gov).

b. At a minimum, any sewage spill above 1,000 gallons or that could impact water contact recreation, any oil spill that could impact wildlife, any hazardous material spill where residents are evacuated, any spill of reportable quantities of hazardous waste (as defined in 40CFR 117 and 40 CFR 302), or any other spill or discharge that is reportable to the OES (collectively, an "Emergency Situation") shall be reported within twenty-four (24) hours of becoming aware of the circumstances.

2. Other spill incidents, including any unauthorized discharge, that are not incidents reportable to the OES shall be reported to the Executive Officer within two (2) business days of becoming aware of the circumstances.

3. A written report of the discharge or incident described in this subsection shall be submitted to the Executive Officer within ten (10) calendar days of becoming aware of the circumstances.

4. The Permittees may propose a reporting program, including reportable incidents and quantities, jointly with other agencies such as the County Health Department for approval by the Executive Officer.

C. The Permittees shall continue to implement control measures to reduce and/or to eliminate the discharge of pollutants, including trash and debris, from MS4s to the Receiving Water. These control measures shall be reported in the Annual Report.

D. Within eighteen (18) months of this Order's adoption, the Technical Committee shall provide a written assessment of the relative efficiency and cost effectiveness of the available BMPs and the BMPs currently implemented for the control of anthropogenic litter (e.g. street sweeping, catch basin cleaning, deployment of trash receptacles, public education, etc.) and develop recommendations for improving the effectiveness of the currently implemented measures, and implement appropriate BMPs to control trash in Urban Runoff. The Permittees are required to establish a system to record visual observation information regarding the materials collected from the MS4 (e.g. paper, plastic, wood, glass, vegetative litter, and other similar debris), descriptions of its main source(s) (e.g. office, residential, commercial, and industrial waste), and problem areas. The findings of this review, along with supporting field data, shall be included in the Annual Report for 2004-2005.

E. Within eighteen (18) months of this Order's adoption, the Permittees shall review their litter/trash control ordinances to determine the need for revision to improve the effectiveness of these ordinances. The findings of this review shall be included in the Annual Report for 2003-2004.

VII. SEWAGE SPILLS, INFILTRATION INTO MS4 SYSTEMS FROM LEAKING SANITARY SEWER LINES, SEPTIC SYSTEM FAILURES, AND PORTABLE TOILET DISCHARGES

A. The Executive Officer will request the local sewering agencies to take the lead and develop unified response guidance, in cooperation with the Principal Permittee. The Principal Permittee shall collaborate with the local sewering agencies to develop a unified response procedure to respond to sewage spills that may have an impact on Receiving Water quality. The Permittees shall provide local sanitation districts 24-hour access to the MS4s to address sewage spills. The Permittees shall continue to work cooperatively with the local sewering agencies to determine and control the impact of infiltration from leaking sanitary sewer systems on Urban Runoff quality.

B. Within twelve (12) months of this Order's adoption, the Permittees, whose jurisdictions have 50 or more septic tank sub-surface disposal systems in use, shall identify with the appropriate governing agency a procedure to control septic system failures to prevent impacts on Urban Runoff quality and continue to follow procedures established by the State Health Department to address such failures.

C. Within twelve (12) months of this Order's adoption, the Principal Permittee shall review the Permittees' current oversight programs for portable toilets to determine the need for revisions.

VIII. NEW DEVELOPMENT (INCLUDING SIGNIFICANT REDEVELOPMENT)

A. GENERAL REQUIREMENTS:

1. Each Co-Permittee shall, consistent with the DAMP and its Storm Water Ordinance, and any revisions thereto as required by this Order, when considering any map or permit for which discretionary approval is sought require that said map or permit contain a condition requiring the applicant to obtain coverage under the General Construction Activity Storm Water Permit or the San Jacinto Watershed Construction Activities Permit, if applicable (collectively the "Construction Activity Permits"), by filing a Notice of Intent ("NOI") with either the State or Regional Board, as applicable. Verification that said condition has been satisfied may be established, as to the General Construction Activity Storm Water Permit, by presentation of a letter from the State Board indicating that the required fees have been paid and a waste discharge identification number ("WDID No.") has been issued or determining from the State Board's web-site that the WDID No. has been issued, and, as to the San Jacinto Watershed Construction Activities Permit, that the required Storm Water Pollution Prevention Plan ("SWPPP") has been approved, fees have been paid and the Regional Board has issued a WDID No. Within six (6) months of this Order's adoption, each Co-Permittee shall review and revise as needed its land use approval process to include a procedure to ensure that coverage has been secured under the appropriate Construction Activity Permit for each map or permit that it has approved.

2. Each Co-Permittee shall continue to implement those BMPs identified in the "New Development Guidelines", and the attachment thereto entitled "Selection and Design of Storm Water Quality Controls," that constitute Supplement A ("Supplement A") to the DAMP in its review of any map or permit for which discretionary approval is sought. The land use approval process of each Co-Permitee shall continue to require source control and address the need for structural treatment BMP's, identify their location, and identify how long-term maintenance responsibilities are to be met.

3. The Permittees shall review and revise, as necessary, the DAMP, including Supplement A, in order to effect the implementation of new or enhanced BMPs that more effectively reduce pollutants in runoff from construction sites during all phases of construction, including post-construction. At a minimum, the DAMP shall continue to:

a. Discuss possible amendments to the Co-Permittees' ordinances, regulations, and codes that would enhance grading and erosion control and public education,

b. Propose review criteria to be applied in land use review processes to better address issues regarding Urban Runoff; and

c. Identify BMPs or regional or sub-regional Urban Runoff treatment/infiltration BMPs that would enhance pollution prevention measures and address post construction Urban Runoff issues.

4. The Permittees shall review and revise, as necessary, the DAMP, including Supplement A, in order to develop and effect the implementation of new or enhanced BMPs that reduce pollutants in Urban Runoff from commercial and industrial sites both during and after site construction. Appropriate BMPs will be required for industrial/commercial land uses that are identified during the land use approval process. For industrial/commercial land uses that are identified subsequent to the issuance of a discretionary map or permit, appropriate BMPs will be addressed through the E/CS. At a minimum the DAMP shall continue to address:

   a. The identification of those characteristics of the development of a commercial or industrial site that are likely to be a source of pollutants in Urban Runoff that should be addressed and considered during the land use approval process, and

   b. The identification of regional or sub-regional Urban Runoff treatment/infiltration BMPs that would address post construction Urban Runoff issues.

5. Each Co-Permittee shall continue to reduce the short and long-term impacts on Receiving Water quality from New Developments, as defined in Subsection B.1, below, and Significant Redevelopment, as defined in Subsection B.1., below, as required in Subsection B., below. In order to reduce pollutants and runoff flows from New Development and Significant Redevelopment to the MEP, the Co-Permittees shall at a minimum:

   a. Review their respective land use approval and CEQA review processes to insure that each addresses Urban Runoff issues consistent with provisions of this Order and make appropriate revisions to each, and

   b. Develop and implement a public/business education program as specified in Section IX.C.4., below.

6. Each Co-Permittee shall provide the Regional Board with any draft general plan or any draft general plan amendments for comment in accordance with Government Code Section 65350 et. seq.

7. Each Co-Permittee shall, through its conditions of approval, continue to address the maintenance and operation of structural BMPs required to be constructed to ensure Urban Runoff quality from New Development. The parties responsible for the maintenance and operation of such structural BMPs and an appropriate funding mechanism shall be identified in said conditions of approval.

8. Within twelve (12) months of this Order's adoption, the Co-Permittees shall review their respective land use approval and CEQA processes to ensure that Urban Runoff issues are properly considered and addressed. If necessary, these processes should be revised to consider and mitigate impacts to Urban Runoff quality. These changes may include amending the general plan, modifying the land use approval process or the environmental assessment form, which may include adding a section on Urban Runoff quality issues. The findings of this review and the actions taken by the Co-Permittees shall be reported to the Regional Board in the Annual Report for the corresponding year in which the review is completed. The following shall be considered in a Co-Permittee's environmental assessment form:

   a. Potential impact that construction of the project may have on Urban Runoff.

   b. Potential impact that operation of the project may have on Urban Runoff.

   c. Potential for discharge of pollutants in Urban Runoff from areas identified within the project site to be used for material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas or loading docks, or other outdoor work areas.

   d. Potential for pollutants in Urban Runoff discharged from a project site that may affect the beneficial uses of the Receiving Waters.

   e. Potential for significant changes in the flow velocity or volume of Urban Runoff from a project site that would result in environmental harm.

   f. Potential for significant increases in erosion of a project site or surrounding areas.

9. Within twenty-six (26) months of this Order's adoption, each Co-Permittee shall review its general plan and related land use ordinances and land use approval process (including, but not limited to, its approved development standards, zoning ordinances, standard conditions of approval, or project development guidelines) to ensure that the principles and policies enumerated below are properly considered and are incorporated into the land use approval process. The findings of this review and the actions taken by each Co-Permittee shall be reported to the Regional Board in the Annual Report for the year in which the review is completed. Said principles and policies should include, but not be limited to, the following:

a. Limit disturbance of natural water bodies and drainage systems; conserve natural areas; protect slopes and channels; minimize impacts from Urban Runoff on the biological integrity of natural drainage systems and water bodies;

b. Minimize changes in hydrology and pollutant loading; require incorporation of source control and structural BMPs[9] to mitigate the projected increases in pollutant loads and flows; ensure that post-construction runoff rates and velocities from a site do not result in significant adverse impact on downstream erosion and stream habitat; limit the quantity of Urban Runoff directed to impermeable surfaces and the MS4s; and maximize the percentage of permeable surfaces to allow more percolation of Urban Runoff into the ground;

c. Preserve wetlands, riparian corridors, and buffer zones; establish reasonable limits on the clearing of vegetation from the project site;

d. Encourage the use of BMPs to manage Urban Runoff quality and quantity;

e. Provide for appropriate permanent measures to reduce pollutant loads in Urban Runoff from the development site; and,

f. Establish development guidelines for areas particularly susceptible to erosion and sediment loss.

10. Within sixteen (16) months of this Order's adoption, each Co-Permittee shall review and, as necessary, revise its grading/erosion control ordinances in order to reduce erosion caused by New Development or Significant Redevelopment.

11. Within eighteen (18) months of this Order's adoption, the Permittees shall identify a listing of erosion control BMPs appropriate for use during site construction in the Permit Area. The proposed and final BMP listing shall be approved, in writing, by the Executive Officer.

12. The Co-Permittees shall continue to implement the BMPs described in Supplement A and the "Municipal Facilities Strategy" dated 1997, prepared for and approved by the Permittees.

[9] In lieu of site specific structural BMPs, a regional treatment system that provides equivalent or superior treatment of Urban Runoff is acceptable.

B. WATER QUALITY MANAGEMENT PLAN FOR URBAN RUNOFF (FOR NEW DEVELOPMENT/SIGNIFICANT REDEVELOPMENT)

Within twenty (20) months of this Order's adoption, the Permittees shall develop a Water Quality Management Plan (the "WQMP") identifying BMPs, including design standards for source control and structural BMPs[9], that are to be applied when considering any map or permit for which discretionary approval is sought. The WQMP is intended to address regional and sub-regional source control and structural BMPs and to provide guidelines for site specific, "post-construction BMPs" (as defined in Appendix 4, Glossary) to address management of Urban Runoff quantity and quality. The WQMP is to be submitted to the Executive Officer for his review and approval, consistent with the criteria identified in Subsections B.1., 2., and 3., below:

1. The WQMP shall address management of Urban Runoff quality from a project site, represented by a map or permit for which discretionary approval is sought from a Co-Permittee, in one of the categories of development identified below:

   a. "Significant Redevelopment" is defined as the addition or creation of 5,000, or more, square feet of impervious surface on an existing developed site. This includes, but is not limited to, construction of additional buildings and/or structures, extension of the existing footprint of a building, construction of impervious or compacted soil parking lots. Where Significant Redevelopment results in an increase of less than fifty percent of the existing impervious surfaces of an existing developed site, and the existing developed site received its discretionary land use approvals prior to the adoption of the WQMP, the WQMP would apply only to the addition, and not the existing development. Significant Redevelopment does not include routine maintenance activities that are conducted to maintain original line and grade, hydraulic capacity, the original purpose of the constructed facility or emergency actions required to protect public health and safety;

   b. For purposes of this Order, the categories of development identified below, shall be collectively referred to as "New Development":

      (1.) Residential development of 10 dwelling units, or more, including single family and multi-family dwelling units, condominiums, or apartments.
      (2.) Industrial and commercial development where the land area represented by the proposed map or permit is 100,000 square feet, or more, including, but not limited to, non-residential developments such as hospitals, educational institutions, recreational facilities, mini-malls, hotels, office buildings, warehouses, light industrial, and heavy industrial facilities;
      (3.) Automotive repair shops (with standard industrial classification ("SIC") codes 5013, 7532, 7533, 7534, 7537, 7538, and 7539).
      (4.) Restaurants (SIC Code 5812) where the project site is 5,000 square feet, or more.

(5.) Hillside development that creates 10,000 square feet, or more, of impervious surface(s), including developments located on areas with known erosive soil conditions or where the natural slope is twenty-five percent or more.

(6.) Developments creating 2,500 square feet, or more, of impervious surface that is adjacent to (within 200 feet) or discharging directly into areas designated in the Basin Plan as waters supporting habitats necessary for the survival and successful maintenance of plant or animal species designated under state or federal law as rare, threatened, or endangered species (defined in the Basin Plan as "RARE") or waterbodies listed on the CWA Section 303(d) list of Impaired Waterbodies within the Permit Area.

(7.) Parking lots of 5,000 square feet or more of impervious surface exposed to storm water. Parking lot is defined as a site or facility for the temporary storage of motor vehicles.

2. The primary objective of the WQMP, by addressing source control and structural BMPs[9], applied on a regional, sub-regional or site specific basis, is to ensure that the land use approval process of each Co-Permittee will minimize pollutant loads in Urban Runoff from project sites for a map or permit for which discretionary approval is given. This objective may be achieved through source control and structural BMPs. In developing the WQMP, the Permittees are to consider and address the following:

   a. Pollutants of Concern/Conditions of Concern. The WQMP is to include a protocol by which Pollutants of Concern and/or Conditions of Concern are identified and their potential impact on Urban Runoff from a project site that is to be developed by one or more of the categories specified in Section VIII.B.1., above. The protocol shall include, at a minimum, consideration of the following:

      (1) The quality of the Receiving Waters in proximity to the project site (including pollutants for which a waterbody within the Permit Area that has been listed as impaired under CWA Section 303(d));
      (2) The category of development and the type of pollutants associated with that development category;
      (3) Pollutants expected to be present on the project site; and
      (4) Sensitivity of the Receiving Waters in proximity to the project site to changes in storm water discharge flow rates, velocities, durations, and volumes.

   b. Implementation Process. The WQMP shall specify at which point in the land use approval process the provisions of the WQMP should be considered. The WQMP shall generally describe the type of municipal departments or related agencies that are best equipped to evaluate the project site and draft the conditions of approval that will identify the types of BMPs required to address the specified concerns indicated by the protocol developed consistent with Subsection B.2.a, above, and incorporated into the WQMP.

c. If the draft condition of approval identifies the need for source control or structural BMPs[9], the WQMP will require the proposed condition of approval to identify the operation and maintenance requirements for the identified structural source and/or treatment control and identify the funding source(s) and the parties responsible for the ongoing operation, maintenance, repair, rehabilitation and/or replacement of the source control and/or structural BMPs[9].

3. The WQMP shall include a list of recommended source control and structural BMPs[9] and a protocol, developed pursuant to Subsection B.2., above, that will identify those applications that would be most effective for a project site that is to be developed by one or more of the categories specified in Section VIII.B.1., above. The source control and structural BMPs included in said list shall, at a minimum:

   a. Control the post--construction peak storm water runoff discharge rates and velocities to avoid increasing downstream erosion beyond pre-construction conditions;

   b. Conserve natural areas and protect stream habitat, where feasible;

   c. Minimize the introduction of Pollutants of Concern into Urban Runoff;

   d. Remove Pollutants of Concern from Urban Runoff to the MEP;

   e. Protect slopes and channels from eroding;

   f. Require storm drain inlet stenciling and signage;

   g. Require properly designed outdoor material storage areas;

   h. Require properly designed trash storage areas; and

   i. Be located as close to pollutant sources, as appropriate and economically/ technologically feasible, and before the Urban Runoff is discharged into Receiving Waters.

4. If by January 1, 2005, the Permittees have not developed the WQMP and/or the WQMP has not been approved by the Executive Officer, then each Co-Permittee shall cause to be placed on any proposed project submitted to it after said January 1st that requires discretionary approval of a map or permit that proposes to develop a site consistent with one or more of the categories specified in Subsection B.1., above, conditions of approval that will require source control and/or structural BMPs that are to meet design standards consistent with those specified in Subsection B. 5, below.

5. Source control and structural BMPs for any proposed project submitted to a Co-Permittee that requires discretionary approval of a map or permit that proposes to develop a site consistent with one or more of the categories specified in Subsection B.1., above, are to be sized to comply with one of the following numeric sizing

criteria or be determined by the Co-Permittee to provide equivalent or superior treatment of Urban Runoff, on a site basis:

a. **Volume.** Volume–based BMPs shall be designed to treat urban pollutants (including, but not limited to, sediments, copper, lead, arsenic, zinc, and pesticides), or infiltrate either:

1) The volume of Urban Runoff produced from a 24-hour, 85th percentile storm event, as determined from the local historical rainfall record; or
2) The volume of annual Urban Runoff produced from a 24-hour, 85th percentile rainfall event, determined as the maximized capture Urban Runoff volume for the area, from the formula recommended in *Urban Runoff Quality Management, WEF Manual of Practice No. 23/ASCE Manual of Practice No. 87 (1998)*; or
3) The volume of annual Urban Runoff based on unit basin storage volume, to achieve 80% or more volume treatment by the method recommended in *California Storm Water Best Management Practices Handbook – Industrial/Commercial (1993)*; or
4) The volume of Urban Runoff, as determined from the local historical rainfall record, that achieves approximately the same reduction in pollutant loads and flows as achieved by mitigation of the Urban Runoff produced from a 24-hour, 85th percentile storm event;

Or,

b. **Flow.** Flow-based BMPs shall be designed to treat urban pollutants (including, but not limited to, sediments, copper, lead, arsenic, zinc, and pesticides), or infiltrate either:

1) The maximum flow rate of Urban Runoff produced from a rainfall intensity of 0.2 inch of rainfall per hour; or
2) The maximum flow rate of Urban Runoff produced by the 85th percentile hourly rainfall intensity, as determined from the local historical rainfall record, multiplied by a factor of two; or
3) The maximum flow rate of Urban Runoff, as determined from the local historical rainfall record, that achieves approximately the same reduction in pollutant loads and flows as achieved by mitigation of the 85th percentile hourly rainfall intensity multiplied by a factor of two.

6. Implementation of Subsections B.1. through B.5., above shall include consideration of the following:

a. Each Co-Permittee may propose equivalent sizing criteria for structural BMPs that will achieve greater or substantially similar pollution control benefits. In the absence of approved equivalent sizing criteria, the Co-Permittee shall implement the above stated sizing criteria.

b. Waiver Provisions. A Co-Permittee may provide for a project to be waived from the requirement of implementing structural BMPs (Section VIII. B. 5). All waivers, along with documentation justifying the issuance of the waiver, must be submitted to Regional Board staff in writing within thirty (30) calendar days. If the Executive Officer determines that waivers are being inappropriately granted, this Order may be reopened to modify these waiver conditions:

(1). If infeasibility can be established. A waiver of infeasibility shall only be granted by a Co-Permittee when all available structural BMPs have been considered and rejected as technically infeasible and/or the cost of implementing the structural treatment BMP greatly outweighs the pollution control benefit.

(2.) For those portions of the Permit Area that will not result in a discharge to the Receiving Waters under the rainfall conditions specified in Subsections B.5., above.

c. If a particular BMP is not technically feasible, other BMPs should be implemented to achieve the same level of pollution control or if the cost of implementing a technically feasible BMP greatly outweighs the pollution control benefits, the Co-Permittees may grant a waiver of the numeric sizing criteria for said BMP as set forth in the WQMP.

d. The Principal Permittee and the Co-Permittees, individually or jointly, as appropriate, may develop and implement regional and sub-regional watershed management BMPs that address Urban Runoff from New Development and Significant Redevelopment.

e. The obligation to install structural BMPs for New Development will be satisfied if, for a specific plan, multiple subdivisions, or a regional area, structural BMPs are constructed with the requisite capacity to serve the specific plan, multiple subdivisions, or regional area, even if certain phases of the specific plan or the subdivision do not have structural treatment BMP located within the boundaries of the particular phase, provided, however, the structural BMPs are designed and implemented to intercept Urban Runoff prior to it reaching the Receiving Waters and said BMPs meet the sizing criteria set forth in the WQMP or as specified in Subsection B.5, above.

7. Structural BMPs utilizing infiltration shall comply with the following:

a. Infiltration shall not cause or contribute to an exceedance of groundwater quality objectives.

b. Protect groundwater quality.

c. Should not be used in high vehicular traffic areas (25,000 or greater average vehicles daily) unless necessary to mitigate peak storm flows for the protection of real and personal property, or for the protection of public health and safety. A sampling and analysis plan shall be implemented for such sites.

d. Shall be located at least 500 feet horizontally from water supply wells.

e. Shall not cause a nuisance, including odor, vectors or pollution as defined by Water Code Section 13050.

IX. MUNICIPAL INSPECTION PROGRAM

The municipal inspection program is outlined in the E/CS, prepared by the Permittees. The E/CS describes minimum inspection and enforcement procedures utilizing existing inspection programs, provides criteria for characterizing the significance of violations, criteria for prioritizing violations, appropriate response actions corresponding to the priority of violations and identifies the hierarchy of enforcement/compliance responses. The E/CS comprises a framework to standardize the implementation and enforcement by the Co-Permittees of their respective Storm Water Ordinances. As part of the E/CS, the Principal Permittee and the County have implemented the CAP that, through the Riverside County Environmental Health Department, specifically addresses storm water compliance survey/inspections of each facility that must secure a hazardous materials permit for either storing, handling or generating hazardous materials and restaurants. The Co-Permittees shall continue to enforce their respective Storm Water Ordinances consistent with the E/CS and shall revise the E/CS, within twelve (12) months of the adoption of this Order, and their respective Storm Water Ordinances consistent with the program elements described below. The revision of the E/CS is to be submitted for approval, in writing, by the Executive Officer.

A. Construction Sites

1. Each Co-Permittee shall develop within twelve (12) months of this Order's adoption, an inventory of active construction sites within its jurisdiction for projects for which a building or grading permit has been issued for a site that is 1-acre or larger. As written in the "Storm Water Phase II Final Rule – Small Construction Program Overview" (EPA 833-f-00-013, January 2000, Fact Sheet 3.0), smaller parcels that are part of a larger development will also be required to comply with the Phase II rules. A construction site will be included in the inventory regardless of whether the construction site is subject to the Construction Activity Permits, or other individual construction storm water NPDES permits. In addition, beginning thirteen months (13) from the adoption date of this Order, New Development/Redevelopment Sites meeting the criteria defined in Section VIII. B.1, shall also be included in this database. This inventory shall be routinely maintained to reflect additional construction sites as permits are issued and may reflect deletions as occupancy permits are issued or a construction site is abandoned. This inventory shall be maintained in a computer database system. An electronic copy or update of the database, in a format acceptable to the Executive Officer, shall be provided with each Annual

Report or upon request. The database specifics shall at a minimum include the relevant site information as outlined in the E/CS. The revised E/CS should provide for the inclusion of the following information: facility name (dba), address, city, zip code, mailing address (if different), location reference (such as GIS coordinates, cross streets, etc.) facility contact and phone number, site size, Map/Plot Plan No., Grading Permit No., Assessor's Parcel Number ("APN"), and State WDID No. Linking the database to a Geographical Information System ("GIS") is recommended but is not required.

2. Within twelve (12) months of this Order's adoption, the Co-Permittees shall inspect all inventoried construction sites, document relevant site information as outlined in the E/CS, and shall cause said information to be entered into the inventory database. In establishing priorities for inspection of construction sites consistent with this Order, the Co-Permittees shall prioritize construction sites within their jurisdiction as a high, medium, or low threat to Receiving Water quality (consistent with the criteria contained in Section IX.A.3., below). Evaluation of construction sites should be based on such factors as soil erosion potential, project size, proximity and sensitivity of Receiving Waters, history of compliance, and other relevant factors. The priority level assigned to a construction site may change during the construction period, however, at a minimum, the following construction sites shall be given a high priority in the initial inventory:

   a. Sites that disturb an area greater than 50 acres;

   b. Sites that disturb an area greater than one (1) acre and are located adjacent to, within 200 feet, of an identified impaired water body within the Permit Area; and,

   c. Sites that disturb an area greater than one (1) acre and directly discharge to an identified Impaired Waterbody within the Permit Area.

3. Each Co-Permittee shall conduct construction site inspections for compliance with its ordinances, including its Storm Water Ordinance, regulations, codes, and the WQMP, when approved. Construction site inspections shall at a minimum address the following areas as outlined in the E/CS:

   a. Check for submittal of a NOIs in compliance with the Construction Activity Permits, if required;

   b. Confirm a SWPPP, if required, is on-site;

   c. Confirm compliance with the Co-Permittee's Storm Water Ordinance;

   d. Check for active non-stormwater discharges or potential illicit connections or illegal discharges to a MS4; and,

e. The frequency of inspections shall be as follows:

Site Priority Level	Inspection Frequency
High	Once every two weeks
Medium	Once each month
Low	Once during the wet season
Follow-up inspections when Storm Water Ordinance violations are observed	As specified in the E/CS, at least within two weeks, or consistent with a compliance schedule.

4. Each Co-Permittee shall enforce its Storm Water Ordinance at construction sites as necessary to maintain compliance with the E/CS and this Order. Sanctions for non-compliance may include: verbal and/or written warnings, notice of violation or non-compliance, obtaining an administrative compliance, stop work or cease and desist order, a civil citation or injunction, the imposition of monetary penalties or criminal prosecution (infraction or misdemeanor).

5. As described in the E/CS, the Co-Permittees will provide training to staff involved in inspecting construction sites. Staff training will address the requirements of the following:

   a. The Storm Water Ordinances, resolutions, and codes;

   b. This Order, the approved WQMP, and the DAMP;

   c. The Construction Activity Permits;

   d. The E/CS.

6. Construction site inspectors will also receive training regarding SWPPPs, selection and maintenance of appropriate BMPs for construction sites, including erosion and sediment control. Each Co-Permittee shall have arranged for adequate training of its current inspection staff within twelve (12) months of this Order's adoption and on an annual basis thereafter, prior to the start of the "Rainy Season" (October 1 through May 31st). Training programs should be coordinated with Regional Board staff and prior notification of formal classroom training activities shall be provided to Regional Board staff. New hires or transfers that will be performing construction site inspections for a Co-Permittee shall be trained within six (6) months of starting inspection duties.

7. Within twenty-four (24) hours of receipt of notice by its staff or from a third party, each Co-Permittee shall continue to provide oral or e-mail notification to Regional Board staff of sites within its jurisdiction that are determined to be an Emergency Situation. Following oral or e-mail notification, a written report must be submitted to Regional Board Staff within ten (10) calendar days of receipt of notice of the Emergency Situation, detailing the nature thereof, corrective actions taken by the site owner, other relevant information (e.g., past history of

non-compliance, environmental damage resulting from the Emergency Situation, site owner responsiveness) and the type of enforcement, consistent with Table 4 of the E/CS, that has been or will be carried out by the Co-Permittee. Further, incidences of non-compliance shall be recorded along with the information noted in the written report and the final outcome/enforcement for the incident will be included in the database identified in Subsection A.1, above.

8. If a Co-Permittee receives notice by its staff or from a third party of a non-Emergency Situation representing a possible violation of the Construction Activity Permits or other order or permit issued by the State or Regional Board, the Co-Permittee shall, within two (2) working days, provide oral or e-mail notice to Regional Board staff of the location within its jurisdiction where the incident occurred and describing the nature of the incident. Following oral or e-mail notification, a written report must be submitted to Regional Board staff within ten (10) calendar days of becoming aware of the situation.

9. Upon referral of a construction site to Regional Board staff for failure to obtain coverage under the applicable Construction Activity Permit, failure to keep a SWPPP at the construction site, if applicable, or an observed act or omission that suggests failure to comply with either, the Co-Permittee will take no further action at the construction site with regard to securing compliance with the Construction Activity Permits. It is understood by the Co-Permittees and Regional Board staff that this will preclude duplication of effort and insure that consistent direction is provided to the owner/developer and the construction site manager as to what is required to bring the site into compliance with the General Construction Activity Storm Water Permit or San Jacinto Watershed Construction Activities Permit. Each Co-Permittee shall take appropriate actions to bring a construction site into compliance with its local ordinances, rules, regulations, and WQMP, when approved.

10. The number of inspections and the actions taken will be documented by the Co-Permittees and an appropriate summary of said actions will be provided to the Principal Permittee for inclusion in the Annual Report submitted to the Regional Board.

11. The Permittees need not inspect construction sites already inspected by Regional Board staff if the inspection of said site, given its prioritization consistent with the E/CS, was concluded within the time frame specified for said site's prioritization. To facilitate this, Regional Board staff will post a list of facilities inspected on the website or make this information available to the Co-Permittees by other pre-arranged means.

B. Industrial Facilities

1. Each Co-Permittee shall develop within eighteen (18) months of this Order's adoption, an inventory of industrial facilities in the Permit Area within its jurisdiction that has the potential to discharge pollutants to the MS4.

a. Each Co-Permittee that presently has an existing local industrial inspection program (the cities of Corona and Riverside as to their respective POTW pre-treatment inspections and the County through the CAP) shall include in their respective inventory of industrial facilities information derived from existing compliance survey and inspection programs.

b. Each Co-Permittee without an industrial inspection program shall include in their inventory of industrial facilities information from the CAP that is relevant to its jurisdiction and may include information derived from other agencies providing services within its jurisdiction, including, but not limited to, the appropriate Fire Department, health departments, and POTW servicing the Permit Area.

c. An industrial facility will be included in said inventory, regardless of whether the facility is subject to the General Industrial Activities Storm Water Permit, or other individual NPDES permits issued by the State or Regional Boards.

d. The inventory shall be routinely updated, information can be derived from any of the following sources: conditional use permits, plot plans, building permits, business licenses, occupancy permits, hazardous materials permits, and hazardous waste generator permits are approved for the development of a new industrial facility, additional facilities are identified through the CAP, and as compliance surveys and inspections are completed and industrial facilities are identified. This inventory shall be maintained in a computer database system.

e. The Co-Permittees shall not issue an occupancy permit to an industrial facility or other license authorizing the facility to operate, unless the applicant is informed of the General Industrial Activities Storm Water Permit and that it may have to secure coverage thereunder.

f. The database information content may be Co-Permittee specific and shall be developed and maintained in accordance with the E/CS. The database contents shall at a minimum include the relevant site information, outlined in the E/CS. The revised E/CS should provide for the inclusion of the following information: facility name (dba), address, city, zip code, mailing address (if different), location reference (such as, GIS coordinates, cross streets, etc.) facility contact and phone number, SIC Code(s), State WDID No.(if any), APN, and site size. An electronic copy or update of the database, in a format acceptable to the Executive Officer, shall be provided with each Annual Report or upon request. Linking the database to a GIS is recommended but is not required.

2. The frequency and priority of an industrial facility compliance survey or inspection will be based on the most recent facility visit as outlined in the E/CS, as revised, consistent with this Order. The revised E/CS shall prioritize industrial facilities within their jurisdiction as a high, medium, or low threat to water quality. Evaluation of these facilities should be based on such factors as

type of industrial activities (SIC codes), materials or wastes used or stored outside, pollutant discharge potential, facility size, proximity and sensitivity of Receiving Waters, frequency of existing inspections, based upon other California statutes or regulations, or local regulations, ordinances, or codes, and any other relevant factors. At a minimum, a high priority classification shall be assigned to: facilities subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 and facilities with a high potential for or history of unauthorized, non-storm water discharges.

3. Once the inventory required by Subsection B.1, above, has been completed and the industrial facilities have been prioritized, consistent with Subsection B.2, above, the Co-Permittees are to determine the frequency with which the inventoried facilities are surveyed or inspected. Unless inspected more frequently pursuant to the existing programs, those industrial facilities given a high priority are to be inspected at least once a year, those industrial facilities given a medium priority are to be inspected at least once biannually, and those industrial facilities given a low priority are to be inspected at least once during the term of this Order. In the event that the industrial facility is found to be in violation of the Co-Permittee's Storm Water Ordinances the frequency of inspection shall be increased consistent with a compliance schedule determined appropriate by the Co-Permittee and as outlined in the revised E/CS to cause said facility to be brought into compliance.

4. Industrial facility compliance surveys and inspections shall at a minimum address the following, as outlined in the E/CS:

   a. Check for submittal of a NOI to comply with the General Industrial Activities Storm Water Permit or other permit issued by the State or Regional Board to an industrial facility within the Permit Area;

   b. Confirm compliance with the Co-Permittee's Storm Water Ordinance;

   c. Check for active non-storm water discharges, potential illicit connections, and illegal discharges to the MS4;

   d. Potential for discharge of pollutants in Urban Runoff from areas of material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas or loading docks, or other outdoor work areas;

   e. Implementation and maintenance of appropriate BMPs for industrial facilities.

5. Each Co-Permittee shall continue to enforce its ordinances, including its Storm Water Ordinance, resolutions and codes at industrial facilities as necessary to maintain compliance with this Order. Sanctions for non-compliance may include: verbal or written warnings, notice of violation or non-compliance,

obtaining an administrative compliance, stop work, or cease and desist order, the imposition of monetary penalties or criminal prosecution (infraction or misdemeanor).

6. Within twenty-four (24) hours, each Co-Permittee shall continue to provide oral or e-mail notification to the Regional Board of facilities within its jurisdiction it perceives to be an illicit connection, illegal discharge, or that is determined to be an Emergency Situation. Following oral or e-mail notification, a written report must be submitted to Regional Board Staff within ten (10) calendar days of the Co-Permittee's receipt of notice of the Emergency Situation, detailing the nature of the Emergency Situation, corrective actions taken by the facility owner, other relevant information (e.g., past history of non-compliance with the Co-Permittee's Storm Water Ordinance, environmental damage resulting from the Emergency Situation, facility owner responsiveness) and the type of enforcement, consistent with Table 4 of the E/CS, that has been or will be carried out by the Co-Permittee. Further, incidences of non-compliance shall be recorded, along with the information noted in the written report and the final outcome/enforcement for the incident shall be included in the database identified in Subsection B.1, above.

7. If a Co-Permittee receives notice by its staff or from a third party of a non-Emergency Situation representing a possible violation of the General Industrial Activity Storm Water Permit or other permit issued by the State or Regional Board to an industrial facility, the Co-Permittee shall, within two (2) working days, provide written notice to Regional Board staff of the location within its jurisdiction where the incident occurred and describing the nature of the incident.

8. Upon referral of an industrial facility to Regional Board staff for failure to obtain coverage under the General Industrial Activities Storm Water Permit, failure to keep a SWPPP at the industrial facility, or an observed act or omission that suggests failure to comply with either, the Co-Permittee will take no further action at the industrial facility with regard to securing compliance with the General Industrial Activities Storm Water Permit. It is understood by the Co-Permittees and Regional Board staff that this will preclude duplication of effort and insure that consistent direction is provided to the facility owner/manager as to what is required to bring the facility into compliance with the General Industrial Activities Storm Water Permit. Each Co-Permittee shall take appropriate actions to bring an industrial facility into compliance with its local ordinances, rules, regulations, and WQMP, when approved.

9. The number of compliance surveys/inspections and the actions taken shall be documented by the Co-Permittees and an appropriate summary of said actions shall be provided to the Principal Permittee for inclusion in the Annual Report submitted to the Regional Board.

10. As described in the E/CS, the Co-Permittees shall provide training to staff that are involved in conducting compliance surveys/inspections of industrial facilities. Staff training will address the requirements of the following:

    a. The Storm Water Ordinance

    b. This Order and the DAMP

    c. The General Industrial Activities Storm Water Permit and any other permit issued to industrial facilities within the Permit Area by the State or Regional Board; and

    d. The E/CS.

11. Each Co-Permittee's staff assigned to conduct the industrial facilities compliance surveys/inspections will also receive training regarding pollution prevention plans and implementation of appropriate BMPs for industrial facilities. Training programs should be coordinated with Regional Board staff and prior notification of formal classroom training activities shall be provided to the Regional Board staff.

12. Each Co-Permittee shall have arranged for adequate training of its staff assigned to conduct the industrial facilities compliance surveys/inspections within eighteen (18) months of this Order's adoption, and on an annual basis thereafter. New hires or transfers that will be performing the industrial facilities compliance surveys/inspections for a Co-Permittee will be trained within six (6) months of starting field duties.

13. The Permittees need not inspect Industrial facilities already inspected by Regional Board staff if the inspection of said site, given its prioritization consistent with the E/CS, was concluded within the time frame specified for said site's prioritization. To facilitate this, Regional Board staff will post a list of facilities inspected on the website or make this information available to the Co-Permittees by other pre-arranged means.

C. Commercial Facilities

Within eighteen (18) months of this Order's adoption, the Permittees shall review the E/CS to reflect the following:

1. Those Co-Permittees that presently have an existing compliance survey/inspection program for commercial facilities (the cities of Corona and Riverside as to their respective POTW pre-treatment inspections and the County through the CAP) shall develop within eighteen (18) months of this Order's adoption, an inventory of the commercial facilities that are surveyed or inspected pursuant to the existing program. The inventory will be updated on a routine basis from such information as conditional use permits, plot plans, building permits, business licenses, occupancy permits, hazardous materials permits, and hazardous waste generator permits are approved for development of a new commercial facility, additional commercial facilities are identified through the CAP and compliance surveys and inspections are completed and new commercial facilities are identified. Each Co-Permittee without a commercial facility inspection program shall include in its inventory of commercial facilities information from the CAP (including automobile mechanical repair, maintenance, fueling, or cleaning; automobile and other vehicle body repair or painting; painting and coating; pool, lake and fountain cleaning (base of operations)) that is relevant to its jurisdiction and may include information derived from other agencies providing services within its jurisdiction, including, but not limited to, the POTW. This inventory shall be maintained in a computer database system. The revised E/CS should provide for the inclusion of the following information: facility name (dba), address, city, zip code, mailing address (if different), location reference (GIS coordinates, cross streets, APN, etc.) facility contact and phone number, SIC code(s), and site size. An electronic copy or update of the database, in a format acceptable to the Executive Officer, shall be provided with each Annual Report or upon request. Linking the database to a GIS is recommended but is not required.

2. In addition, each Permittee shall develop within twenty-four (24) months of this Order's adoption, an inventory of the commercial facilities/companies listed below within its jurisdiction:

   a. Mobile automobile or other vehicle washing (base of operations);

   b. Mobile carpet, drape or furniture cleaning (base of operations);

   c. Mobile high pressure or steam cleaning (base of operations);

   d. Nurseries and greenhouses;

   e. Landscape and hardscape installation (base of operations); and,

   f. Other commercial sites/sources that the Permittee determines may contribute a significant pollutant load to the MS4.

3. Within twelve (12) months of this Order's adoption, the CAP will be revised to cause compliance surveys/inspections of restaurants within Riverside County that, at a minimum, include the following:

   a. Oil and grease disposal to verify that these wastes are not discharged onto a parking lot, street or adjacent catch basin;

   b. Trash bin areas to verify that these areas are clean, the bin lids are closed, the bins are not filled with liquid, and the bins have not been washed out into the MS4;

   c. Parking lot, alley, sidewalk and street areas to verify that floor mats, filters and garbage containers are not washed in those areas and that no wash water is discharged to MS4s from those areas; and,

   d. Parking lot areas to verify that they are cleaned by sweeping, not by hosing down, and that the facility operator uses dry methods for spill cleanup.

4. The revised E/CS shall prioritize commercial facilities within their jurisdiction as a high, medium, or low threat to water quality. Evaluation of these facilities should be based on such factors as type of commercial activities (SIC codes), materials or wastes used or stored outside, pollutant discharge potential, facility size, proximity and sensitivity of Receiving Waters, frequency of existing inspections, based upon other California statutes or regulations, or local regulations, ordinances, or codes, and any other relevant factors. At a minimum, a high priority classification shall be assigned to facilities with a high potential for or history of unauthorized, non-storm water discharges.

5. Once the inventory required by Subsection C.1, above, has been completed and the commercial facilities have been prioritized, consistent with Subsection C.4, above, the Co-Permittees are to determine the frequency with which the inventoried facilities are surveyed or inspected, pursuant to existing programs. Unless inspected more frequently pursuant to the existing programs, those commercial facilities given a high priority are to be inspected at least once a year, those commercial facilities given a medium priority are to be inspected at least once biannually, and those commercial facilities given a low priority are to be inspected at least once during the term of this Order. In the event that the commercial facility is found to be in violation of the Co-Permittee's Storm Water Ordinances the frequency of inspection shall be increased consistent with a compliance schedule determined appropriate by the Co-Permittee and as outlined in the revised E/CS to cause said facility to be brought into compliance.

6. The commercial facility compliance survey/inspection shall, at a minimum, address the following, consistent with the E/CS:

   a. Commercial activity type(s) and SIC code(s);

b. Compliance with each Co-Permittee's Storm Water Ordinances; If applicable, check for submittal of a NOI to comply with the General Industrial Activities Storm Water Permit or other permit issued by the State or Regional Board; and,

c. The E/CS.

7. The Permittees will expand its existing public educational program to include a concentrated, business-specific element. This expanded education element will be described in detail in the WQMP and the DAMP. This education program will include criteria to provide the commercial facility owner and/or operator with information to encourage compliance with the Co-Permittees' Storm Water Ordinances and the General Industrial Activities Storm Water Permit or other permit issued by the State or Regional Board, if applicable. If the commercial facility is found to need coverage under the General Industrial Activities Storm Water Permit or other permit issued by the State or Regional Board, information will be provided and the Regional Board will be notified.

8. Each Co-Permittee shall enforce its Storm Water Ordinance prohibiting non-exempt non-storm water discharges at commercial facilities. Sanctions for non-compliance may include: verbal and/or written warnings, notice of violation or non-compliance, obtaining an administrative compliance, stop work, or cease and desist order, a civil citation or injunction, the imposition of monetary penalties or criminal prosecution (infraction or misdemeanor).

9. The number of compliance surveys/inspections and the actions taken shall be documented by the Co-Permittees and an appropriate summary of said actions will be provided to the Principal Permittee for inclusion in the Annual Report submitted to the Regional Board.

10. Within twenty-four (24) hours of receipt of notice by its staff or from a third party, each Co-Permittee shall continue to provide oral or e-mail notification to the Regional Board of facilities within its jurisdiction that it perceives to have an illicit connection, illegal discharge, or that is determined to be an Emergency Situation. Following oral or e-mail notification, a written report must be submitted to Regional Board Staff within ten (10) calendar days of the Co-Permittee's receipt of notice of the Emergency Situation. All written reports shall detail the nature of the Emergency Situation, identify corrective actions taken by the facility owner, and note other relevant information (e.g., past history of non-compliance, environmental damage resulting from the Emergency Situation, facility owner or manager's responsiveness) and the type of enforcement, consistent with Table 4 of the E/CS, that has been or will be carried out by the Co-Permittee. Further, incidences of non-compliance shall be recorded along with the information noted in the written report and the final outcome/enforcement for the incident will be included in the database identified in Subsection C.1, above.

11. If a Co-Permittee discovers, or receives notice by its staff or from a third party of a non-Emergency Situation representing a possible violation of the General Industrial Activity Storm Water Permit, if applicable to the commercial facility, or other permit issued by the State or Regional Board to a commercial facility, the Co-Permittee shall, within two (2) working days, provide written notice to Regional Board staff of the location within its jurisdiction where the incident occurred and describing the nature of the incident.

12. Not all commercial facilities are required to obtain coverage under the General Industrial Activities Storm Water Permit. However, if required to obtain coverage and upon referral of a commercial facility to Regional Board staff for failure to obtain coverage under the General Industrial Activities Storm Water Permit, failure to keep a SWPPP at the commercial facility, or an observed act or omission that suggests failure to comply with the General Industrial Activities Storm Water Permit, the Co-Permittee will take no further action at the commercial facility with regard to securing compliance with the General Industrial Activities Storm Water Permit. It is understood by the Co-Permittees and Regional Board staff that this will preclude duplication of effort and insure that consistent direction is provided to the facility owner/manager as to what is required to bring the facility into compliance with the General Industrial Activities Storm Water Permit. Each Co-Permittee shall take appropriate actions to bring a commercial facility into compliance with its local ordinances, rules, regulations, and WQMP, when approved.

13. As described in the E/CS, Co-Permittees will provide training to staff that is involved in the compliance surveys/inspections of commercial facilities. Staff training will address the requirements of the following:

    a. The Storm Water Ordinance;

    b. This Order and the DAMP;

    c. The General Industrial Activities Storm Water Permits and any other permit issued to a commercial facility within the Permit Area by the State or Regional Board;

    d. The E/CS;

    e. Pollution prevention plans; and,

    f. Implementation and maintenance of appropriate BMPs for commercial sites.

14. Training programs should be coordinated with Regional Board staff and prior notification of formal classroom training activities shall be provided to Regional Board staff.

15. Each Co-Permittee shall have arranged for adequate training of its current municipal staff assigned to conduct the commercial facility compliance

survey/inspection within eighteen (18) months of this Order's adoption, and on an annual basis thereafter. New hires or transfers that will be performing the commercial facilities compliance surveys/inspections for a Co-Permittees will be trained within six (6) months of starting field duties.

X. EDUCATION AND OUTREACH

A. The Urban Runoff regulations require public participation in the Urban Runoff management program development and implementation. As such the Permittees shall solicit and consider comments received from the public and submit copies of the comments to the Executive Officer with the Annual Reports due on November 30th, beginning with the report due on November 30, 2003. In response to the public comments, the Permittees may modify reports, plans, or schedules prior to submittal to the Executive Officer.

B. The Permittees shall continue to participate in a joint outreach with other programs including, but not limited to, the California Urban Runoff Quality Task Force, Caltrans, and other Urban Runoff programs to disseminate a consistent message on Urban Runoff pollution prevention to the public. The Permittees shall continue to sponsor or staff an Urban Runoff table or booth at community, regional, and/or countywide events to distribute public education materials to the public. Each Permittee shall sponsor at least one event per year that provides a venue for Urban Runoff education outreach.

C. Within six (6) months of this Order's adoption, the Permittees shall establish a Public Education Committee to provide oversight and guidance for the implementation of the public education program. The Public Education Committee shall meet at least twice per year. The Public Education Committee shall make recommendations for changes to the public and business education program. The goal of the public and business education program shall be to target 100% within the Permit Area of the residents, including businesses, commercial and industrial establishments and to measurably increase the awareness of Urban Runoff quality of the targeted groups. Through use of local print, radio and television, the Permittees must ensure that the public and business education program makes a minimum of 5 million "impressions" per year (as defined in Appendix 4, Glossary).

D. Within twelve (12) months of formation, the Public Education Committee shall conduct an evaluation to determine the best method of establishing a procedure(s) for providing educational and General Industrial Activities Storm Water Permit compliance guidance materials to businesses within their jurisdiction. This procedure(s) for distributing educational materials to businesses shall be implemented within six (6) months after conducting said evaluation.

E. The Permittees shall continue to implement the public education efforts already underway and shall implement the most effective elements of the public and business education strategy contained in the Storm Water/Clean Water Protection Program. Within eighteen (18) months of formation, the Public Education Committee shall propose a survey for measuring changes in awareness of Urban Runoff quality as a result of the education program. The findings of this survey will provide information for

the development of a future Public Education action plan. Upon approval by the Executive Officer, the study shall be completed by the end of the permit cycle.

F. Within twelve (12) months of this Order's adoption, the Public Education Committee shall develop BMP guidance for restaurants, automotive service centers, and gasoline service stations, and the discharges listed in Section II.C. of this Order, where appropriate, for the Co-Permittees to distribute to these facilities.

G. Within twelve (12) months of this Order's adoption, the Permittees shall develop public education materials to encourage the public to report (including a hotline line number to report) illegal dumping from residential, industrial, construction and commercial sites into public streets, storm drains and other waterbodies, clogged storm drains, faded or missing catch basin stencils and general Urban Runoff and BMP information. This hotline and website shall continue to be included in the public and business education program and shall be submitted for listing in the governmental pages of all major regional phone books.

H. Within eighteen (18) months of this Order's adoption, the Permittees shall develop BMP guidance for the household use of fertilizers, pesticides, and other chemicals, mobile vehicle maintenance, carpet cleaners, commercial landscape maintenance, and pavement cutting. Additionally, BMP guidance shall be developed for categories of discharges listed in Section II.C, identified to be significant sources of pollutants unless appropriate BMPs are implemented. These guidance documents shall be distributed to the public, trade associations, etc., through participation in community events, trade association meetings, and/or mail.

XI. MUNICIPAL FACILITIES PROGRAMS AND ACTIVITIES

A. Successful implementation of the provisions and limitations in this Order will require the cooperation of all the public agency organizations within Riverside County having programs/activities that have an impact on Urban Runoff quality. This may include, but not limited to, those listed in Appendix 2. As such, these organizations are expected to actively participate in implementing this area-wide Urban Runoff program. The Permittees shall be responsible for involving the public agency organizations in their Urban Runoff program.

B. Within eighteen (18) months of this Order's adoption, the Permittees, in coordination with the Riverside County Fire Chiefs Association, or equivalent organization, shall develop a list of appropriate BMPs to be implemented to reduce pollutants from fire training activities, fire hydrant/sprinkler testing or flushing, and BMPs feasible for emergency fire fighting flows.

C. Each Permittee shall continue to implement the recommendations in the Municipal Facilities Strategy to ensure that public agency facilities and activities do not cause or contribute to a pollution or nuisance in Receiving Waters, as defined in Section 13050 of the Water Code. By August 1 of each year, the Permittees shall review their activities and facilities to determine the need for revisions to the Municipal Facilities Strategy. The Annual Report shall include the findings of this review and a schedule

for needed revisions. Revisions should consider a pollution prevention strategy to ensure that the public agency facilities and/or activities including those that are currently not required to obtain coverage under the State's General Urban Runoff Permits or the San Jacinto Watershed Construction Activities Permit are not sources of pollutants into the Waters of the U. S. In addition, the Permittees shall evaluate the applicability of the Municipal Facilities Strategy to municipal maintenance contracts, contracts for field maintenance operations, and leases.

D. Within six (6) months of adoption of this Order, the Permittees shall evaluate their established criteria for inspections of the MS4s and establish criteria for regular maintenance thereof.

E. Within twenty (20) months of this Order's adoption, the Permittees shall complete an assessment of their MS4s to evaluate opportunities to configure and/or to reconfigure channel segments to function as pollution control devices and to optimize beneficial uses. These modifications may include in-channel sediment basins, bank stabilization, water treatment wetlands, etc. This shall be reported in the 2004-2005 Annual Report.

F. Within twelve (12) months of this Order's adoption, the Permittees shall develop and distribute model maintenance procedures for public agency activities and MS4s such as street sweeping, catch basin stenciling, MS4 inspection, "cleaning" (see definition in Appendix 4), and maintenance. This shall be included in the 2004-2005 Annual Report.

G. Within twelve (12) months of this Order's adoption, the Permittees shall review, document, and submit for approval by the Executive Officer, their program for cleaning out open channel MS4s, catch basins, retention/detention basins, and wetlands created for Urban Runoff treatment, prioritized on such factors as distance to Receiving Water, Receiving Water beneficial uses and impairments of beneficial uses, historical pollutant types and loads from past inspections/cleanings, regulatory restrictions, cost/benefit, and the presence of downstream regional facilities that would remove the types of pollutants found in the drainage facilities. Using these factors, the Permittees shall propose revised clean out schedules and frequency for the specified MS4s during the wet and dry season to protect Receiving Water quality to the MEP. The Permittees should be prepared to implement the approved clean out program within twenty-four (24) months of this Order's adoption. The inspection and maintenance frequency for all portions of the MS4s shall be evaluated annually to determine the need for increasing the inspection and maintenance frequency. This information shall initially be included in the 2003-2004 Annual Report.

H. If by November 1, 2004, the Permittees have not developed revised clean out schedules and frequencies, required in Subsection G, above, and/or the revised schedules and frequencies have not been approved by the Executive Officer, then each Permittee shall expand existing programs to inspect, clean, and maintain at least 80% of its open channel MS4s, catch basins, retention/detention basins, and wetlands created for Urban Runoff treatment on an annual basis, with 100% of the facilities included in a two-year period, using the model maintenance procedures developed by the Permittees in Subsection F, above. Each Permittee shall clean those open channel

MS4s and retention/detention basins where there is evidence of illegal discharge. In addition, each Permittee shall clean those retention/detention basins where the inspection reveals that the sediment/storage volume is about 25% full or if accumulated sediment or debris impairs the hydraulic capacity of the facility.

I. Contractor training requirements for Urban Runoff management shall be included in new contracts and contracts that come up for renewal. This shall be reported in the 2002-2003 Annual Report.

J. Within eighteen (18) months of this Order's adoption, the Principal Permittee shall develop and distribute BMP guidance for public agency and contract field operations and maintenance staff to provide guidance in appropriate pollution control measures, how to respond to spills and reports of illegal discharges, etc. This shall be reported in the 2004-2005 Annual Report.

K. At least on an annual basis, each Permittee shall provide training to the public agency staff and to contract field operations staff on fertilizer and pesticide management, model maintenance procedures, and other pollution control measures. Permittee staff responsible for application of fertilizer or pesticides shall attend at least three of these training sessions during the five-year term of this Order (from 2002 to 2007).

L. Each Permittee shall identify areas that are not subject to street sweeping due to lack of continuous curb and gutter, and evaluate their potential for impacting Urban Runoff quality. Appropriate BMPs shall be implemented where significant water quality impact is identified associated with lack of street sweeping. This shall be reported in the 2003-2004 Annual Report.

M. Each Permittee shall annually evaluate their street/road sweeping frequency based on land use and historical information to determine the need to revise their sweeping frequency. This information shall be provided in the Annual Report beginning with the 2003-2004 Annual Report.

N. The Permittees shall maintain an updated site-specific Urban Runoff pollution prevention plan for their facilities and activities.

O. The San Bernardino County Flood Control District and RCFC&WCD, in cooperation with local municipalities, are coordinating an effort to construct flood control facilities in the Chino-Corona Agricultural Preserve area. A status report of this project shall be provided in the Annual Report.

XII. MUNICIPAL CONSTRUCTION PROJECTS/ACTIVITIES

A. All municipal construction activity shall be in compliance with the latest version of the applicable Construction Activity Permit.

B. This Order authorizes the discharge of storm water runoff from construction projects that may result in land disturbance consistent with the acreage criteria of the current General Construction Activity Storm Water Permit.

C. By March 10, 2003, or as specified in the latest version of the General Construction Activity Storm Water Permit, the Permittees shall comply with the requirements for municipal construction projects that may result in land disturbance consistent with the acreage criteria of the current Construction Activity Permits.

D. Prior to commencement of construction activities, the Permittees shall notify the Executive Officer of the proposed construction project by submitting a Notice of Intent (NOI) provided in Attachment 5. The submittal fees for these NOIs are waived for the Permittees. Upon completion of the construction project, the Executive Officer shall be notified of the completion of the project by submitting a Notice of Termination (NOT), provided in Attachment 5.

E. The Permittees shall develop and implement a SWPPP and a monitoring and reporting program that is specific for the construction project prior to the commencement of construction activities. The SWPPP shall be kept at the construction site and released to the public and/or Regional Board staff upon request.

F. The SWPPP and the monitoring and reporting program for the construction projects shall be consistent with the requirements of the latest version of the Construction Activity Permits, as applicable for the size and location of the site. If the site is within the San Jacinto Watershed then the terms and conditions of the San Jacinto Watershed Construction Activities Permit apply, except with respect to submittal of a fee with the NOI and the requirement for this Regional Board to review and approve the site specific SWPPP. The applicable Permitee shall review and approve the SWPPP prepared by their contractor to insure the SWPPP substantially complies with the San Jacinto Watershed Construction Activities Permit. The applicable Permittee shall submit a copy of the approved SWPPP and the approval letter to this Regional Board within 10 days of approval. Upon request, the applicable Permittee shall submit a copy of the approved SWPPP.

G. The Permittees shall give advance notice to the Executive Officer of planned changes in the construction activity, which may result in non-compliance with the latest version of the Construction Activity Permits, as applicable.

H. Emergency public works projects required to protect public health and safety are exempted from compliance with the SWPPP requirements of subsection E, and the requirements of subsections F and G, above.

XIII. PROGRAM MANAGEMENT/DAMP REVIEW

A. The Permittees shall continue to implement all elements of the approved DAMP. Program elements revised in compliance with the requirements of this Order shall be implemented in conformance with the schedules specified in this Order following approval of the Executive Officer. Within six (6) months of approval of the WQMP by the Executive Officer, or no later than January 1, 2005, whichever comes first, the Permittees shall submit a revised DAMP incorporating the revised program elements

and other information as specified by this Order for approval by the Executive Officer. The Permittees shall implement all elements of the approved DAMP.

B. By August 1 of each year, beginning in 2004, the Permittees shall evaluate the DAMP to determine the need for revisions. The Permittees shall modify the DAMP, as necessary, or at the direction of the Executive Officer to incorporate additional provisions. Such provisions may include regional and watershed-specific requirements and/or WLAs developed and approved pursuant to the TMDL process for Impaired Waterbodies. Proposed revisions to the DAMP shall be submitted to the Executive Officer for review and approval. Revisions to the DAMP approved by the Executive Officer shall be implemented in a timely manner. The Annual Report shall include the findings of this review and a schedule for needed revisions.

C. At a minimum, each Annual Report shall include a progress report of:

1. The formal training and coordination meeting needs for the Co-Permittees' staff responsible for performing compliance survey/inspections or educational programs;

2. Source identification and prioritization;

3. Grading and erosion control for construction sites;

4. Verification of coverage under the appropriate General Construction and Industrial Activities Permits;

5. Facility inspection and enforcement consistent with local ordinances, rules, and regulations;

6. Procedures for reporting to the Permittees and this Regional Board non-compliance with each Co-Permittee's Storm Water Ordinance and enhancing current planning review processes to better address issues regarding Urban Runoff;

7. Implementation of new development BMPs, or identification of regional or sub-regional Urban Runoff treatment/infiltration BMPs in which New Development projects could participate.

D. Each Permittee shall designate at least one representative to the Management Steering Committee and Technical Committee as described in Section I.A.2. of this Order. The Principal Permittee shall be notified immediately, in writing of changes to the designated representative to either Committee. The designated representative for each Committee shall attend that Committee's meeting as follows: at least three (3) out of four (4) Management Steering Committee meetings and eight (8) out of ten (10) Technical Committee meetings per year.

XIV. MONITORING AND REPORTING PROGRAM

The Permittees shall comply with Monitoring and Reporting Program No. R8-2002-0011, located in Appendix 3, and any revisions thereto, which are hereby made a part of this

Order. The Executive Officer is hereby authorized to revise the Monitoring and Reporting Program in a manner consistent with this Order to allow the Permittees to participate in regional, statewide, national or other monitoring and reporting programs in lieu of or in addition to Monitoring and Reporting Program No. R8-2002-0011 located in Appendix 3. In addition, significant completion and implementation dates required by this Order are outlined in Section V of the Monitoring and Reporting Program (Appendix 3).

XV. PROVISIONS

A. GENERAL

1. Reports submitted by the Permittees as per the requirements in this Order for the approval of the Executive Officer shall be publicly noticed and made available on the Regional Board's website, or through other means, for public review and comments. The Executive Officer shall consider all comments received prior to approval of the reports. Unresolved issues shall be scheduled for a public hearing at a Regional Board meeting prior to approval by the Executive Officer.

2. The purpose of this Order is to require the implementation of BMPs to reduce, to the MEP, the discharge of pollutants from MS4s in order to support further progress towards attainment of water quality objectives.

3. Permittees shall demonstrate compliance with all the requirements in this Order and shall implement their DAMP and modifications, revisions, or amendments thereto, which are developed pursuant to this Order or determined by the Permittees to be necessary to meet the requirements of this Order and approved by the Executive Officer. The DAMP and amendments thereto are hereby made an enforceable part of this Order.

4. Each Permittee shall continue to implement necessary controls, in addition to those specific controls and actions required by (1) the terms of this Order and (2) the DAMP, to reduce the discharge of pollutants in Urban Runoff to the MEP.

5. The Permittees shall complete changes to plans or programs described in this Order no later than twelve (12) months after this Order goes into effect, unless otherwise specified.

6. Certain BMPs implemented or required by the Permittees for Urban Runoff management may create habitat for vectors (e.g., mosquitoes and rodents) if not properly designed and maintained. Close collaboration and cooperative effort between the Permittees and local vector control agencies and the State Department of Health Services during the development and implementation of Urban Runoff management programs are necessary to minimize potential vector habitat and public health impacts resulting from vector breeding. Nothing in this Order is intended to prohibit inspection or abatement of vectors by the State or local vector control agencies in accordance with the Health and Safety Code of the State of California.

7. The Permittees shall report to the Executive Officer:

   a. Any enforcement actions and known discharges of Urban Runoff or wastewater to facilities owned or operated by the Permittees which may impair domestic water supply sources (e.g., discharges due to a levee break, illegal discharges to the street, etc.) or which may have an impact on human health or the environment; if the discharge is to Canyon Lake or any tributary to Canyon Lake, Elsinore Valley Municipal Water District shall also be notified immediately;

   b. Industrial and/or construction facilities found not to be in compliance with the Construction Activity Permits, or where the activities may be contributing pollutants to the Waters of the U. S.; and,

   c. Suspected or reported activities on federal, state, or other entity's land or facilities, where the Permittees do not have any jurisdiction, and where the suspected or reported activities may be contributing pollutants to the Waters of the U. S.

8. The Permittees shall coordinate their activities to promote consistent implementation of Urban Runoff regulations.

9. The permit application and special NPDES program requirements contained in 40 CFR 122.21 (a), (b), (d) (2), (f), and (p), 122.41 (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), and (l); and 122.42 (c) are incorporated into this Order by reference.

10. The Permittees must comply with all terms, requirements, and conditions of this Order. Any violation of this Order constitutes a violation of the CWA, its regulations and the Water Code, and is grounds for enforcement action, Order termination, Order revocation and re-issuance, denial of an application for re-issuance, Order revisions, or a combination thereof.

11. Permittees shall continue to take reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment.

12. Regional Board staff, USEPA, and other authorized representatives shall be allowed to:

    a. Inspect Permittee records associated with compliance of this Order.

    b. Access to and copying of records that are kept under the conditions of this Order.

    c. Photograph and inspect any facilities or equipment (including monitoring and control equipment) that are related to or may impact storm water discharge or authorized non-storm water discharge.

d. Conduct sampling, and monitoring activities for the purpose of assuring compliance with this Order, or as otherwise authorized by the CWA and/or the Water Code.

e. Review the Permittee's programs and require modification to their programs to comply with the requirements of this Order.

f. Request copies of data, monitoring reports, and sampling data and copies of the Permittee's conclusions and evaluations of the data.

B. FISCAL RESOURCES

The Permittees shall prepare and submit a unified fiscal analysis report appropriate for implementation of the requirements of this Order to the Executive Officer. The fiscal analysis report shall be submitted no later than November 30, of each year and shall at a minimum include the following:

1. Each Permittee's expenditures for the previous fiscal year;

2. Each Permittee's budget for the current fiscal year;

3. A description of the source of funds;

XVI. PERMIT EXPIRATION AND RENEWAL

A. This Order expires on October 26, 2007, and the Permittees must file a ROWD no later than one hundred eighty (180) calendar days in advance of such expiration date as application for issuance of new Waste Discharge Requirements. The ROWD shall, at a minimum, include the following:

1. Any revisions to the DAMP including, but not limited to, activities the Permittees propose to undertake during the next permit term, goals and objectives of such activities, an evaluation of the need for additional source control and/or structural BMPs, proposed pilot studies, etc.;

2. Any new or revised program elements and compliance schedule(s) necessary to comply with Section III of this Order.

3. Changes in land use and/or population including map updates; and

4. Significant changes to the MS4s, outfalls, detention or retention basins or dams, and other controls, including map updates of the MS4s.

B. This Order may be modified, revoked or reissued prior to its expiration date for the following reasons:

1. To address significant changes in conditions identified in the technical reports required by the Regional Board which were unknown at the time of the issuance of this Order;

2. To incorporate applicable requirements of statewide water quality control plans and policies adopted by the State Board or amendments to the Basin Plan approved by the Regional Board, the State Board, and, if necessary, by the Office of Administrative Law; or

3. To comply with applicable requirements, guidelines, or regulations issued or approved under the CWA, if the requirements, guidelines, or regulations contain different conditions or additional requirements than those included in this Order.

4. To incorporate new or revised program elements and compliance schedule(s) necessary to comply with this Order.

5. To incorporate any requirements imposed upon the Permittees through the TMDL process.

6. Pursuant to Section 13228 of the Water Code, this Regional Board may exercise its option allowing the recently annexed 375 acres to the City of Murrieta that are located within the Region to be regulated by the San Diego Regional Water Quality Control Board's Riverside MS4 Permit once it has been renewed.

C. This Order shall serve as a NPDES permit pursuant to Section 402 (p) of the CWA, or amendments thereto, and shall become effective ten (10) calendar days after the date of its adoption provided the Regional Administrator of the USEPA has no objections. If the Regional Administrator objects to its issuance, this Order shall not become effective until such objection is withdrawn.

D. Order No. 96-30 is hereby rescinded.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on **October 25, 2002.**

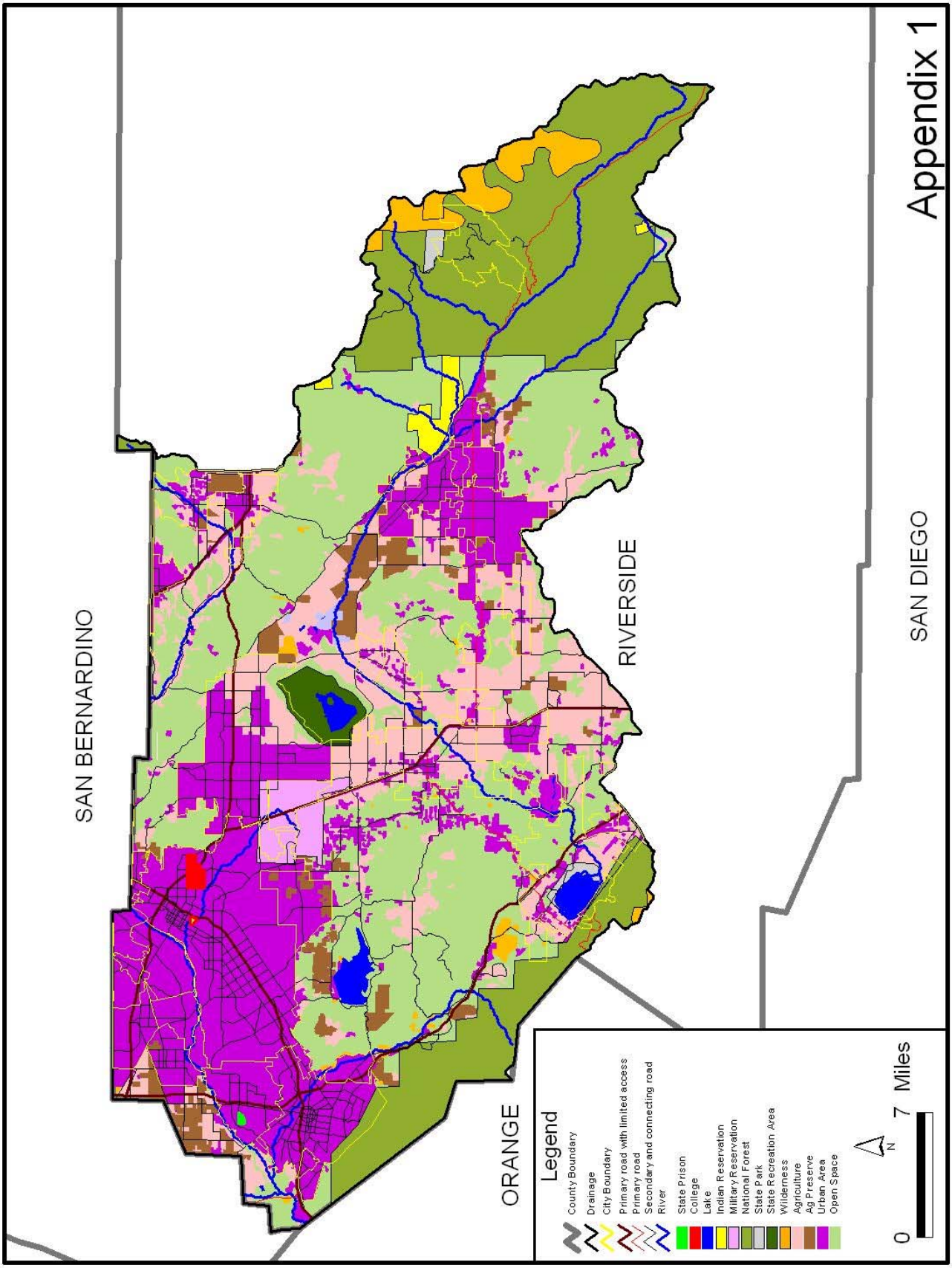
_____

Gerard J. Thibeault
Executive Officer

APPENDIX 1

Permit Area

ORDER NO. R8-2002-0011


Appendix 1
SAN BERNARDINO
RIVERSIDE
SAN DIEGO
ORANGE
Legend
County Boundary
Drainage
City Boundary
Primary road with limited access
Primary road
Secondary and connecting road
River
State Prison
College
Lake
Indian Reservation
Military Reservation
National Forest
State Park
State Recreation Area
Wilderness
Agriculture
Ag Preserve
Urban Area
Open Space
N
0
7 Miles

APPENDIX 2

OTHER ENTITIES THAT MAY DISCHARGE POLLUTANTS TO MS4s

ORDER NO. R8-2002-0011

Appendix 2

OTHER ENTITIES THAT MAY DISCHARGE POLLUTANTS TO MS4s

Government Agencies

Department of the Air Force,
March Air Force Base – Special Districts
State Parks
U.S. Army Corps of Engineers
Caltrans
Department of Corrections
U.S. Forest Service

Hospitals

Corona Community Hospital
Hemet Valley Medical Center
Kaiser Foundation Hospital – Riverside
Loma Linda Hospital (Sun City)
Parkview Memorial Hospital
Riverside Community Hospital
Riverside County Regional Medical Center
Riverside General Hospital

Railroads

AT&SF Railway Company
Burlington Northern Railroad Company
Southern Pacific Railroad Company
Union Pacific Railroad

Special Districts/ Wastewater Agencies

Edgemont Community Services District
Jurupa Community Services District
Santa Ana Watershed Project Authority
Rubidoux Community Services District
Valley Wide Park and Recreation District

School Districts

Alvord Unified School District
Corona – Norco Unified School District
Hemet Unified School District
Lake Elsinore Unified School District
Menifee Union School District
Moreno Valley Unified School District
Nuview Union School District
Perris Elementary School District
Perris Union High School District
Riverside Unified School District
Romoland School District
San Jacinto Unified School District
Val Verde School District

Universities and Colleges

California Baptist University
La Sierra University
Mt. San Jacinto College
Riverside Community College
University of California, Riverside

Water Districts

Eastern Municipal Water District
Elsinore Valley Municipal Water District
Lake Hemet Municipal Water District
Lee Lake Water District
Metropolitan Water District
Western Municipal Water District

APPENDIX 3

MONITORING AND REPORTING PROGRAM

ORDER NO. R8-2002-0011

(October 10, 2002 Draft)
California Regional Water Quality Control Board
Santa Ana Region

Urban Runoff Monitoring and Reporting Program No. R8-2002-0011
NPDES No. CAS618033

for
Riverside County Flood Control and Water Conservation District,
The County of Riverside, and the Cities of Riverside County
within the Santa Ana Region
Area Wide Urban Runoff

I. GENERAL

A. Revisions of the Urban Runoff monitoring and reporting program are appropriate to ensure that the Permittees are in compliance with requirements and provisions contained in this Order. Revisions may be made under the direction of the Executive Officer at any time during the term of the Order, and may include a reduction or increase in the number of parameters to be monitored, the frequency of monitoring, or the number and size of samples collected.

B. The Executive Officer is authorized to allow the Permittees to participate in statewide, national, or other monitoring programs in lieu of this Urban Runoff monitoring program.

C. All sample collection, handling, storage, and analysis shall be in accordance with test procedures under 40 CFR Part 136 (latest edition) "*Guidelines Establishing Test Procedures for the Analysis of Pollutants*," promulgated by the USEPA, the guidance being developed by the State Board pursuant to Water Code Section 133383.5, or other methods which are more sensitive than those specified in 40 CFR 136 and approved by the Executive Officer.

D. The Permittees are authorized to complement their Urban Runoff monitoring data with data from other monitoring sources, provided the monitoring conditions and sources are similar to those in the Santa Ana Watershed.

E. The Principal Permittee has been monitoring Urban Runoff and Receiving Waters since the first permit term. It is recognized that some of the objectives noted in Section II, below, may not have been attained during the previous permit terms. Ongoing long-term Urban Runoff monitoring will help to accomplish these objectives. The Regional Board authorizes the Executive Officer to evaluate and determine adequate progress toward meeting each objective.

F. This Order references three components of the Consolidated Monitoring Program (the "CMP"): (1) The existing CMP shall continue to be implemented until the revised CMP is approved; (2) The CMP will be reviewed and revised under this Order to identify data gaps and to attain the objectives specified in Section II,

below and (3) Other regional monitoring efforts where the Permittees participate or contribute resources.

G. Pending approval of the revised CMP, current monitoring efforts will focus on areas with elevated pollutant concentrations. The Permittee, in coordination with Regional Board staff, will identify these monitoring locations within six (6) months of adoption of this Order.

H. The Permittees shall develop and submit, within twelve (12) months of adoption of this Order a revised CMP for approval by the Executive Officer. The revised CMP should reflect an integrated watershed monitoring approach and be capable of attaining the objectives mentioned below. The development and implementation of the monitoring program shall be in accordance with any requirements developed by the State Board and the time schedules prescribed by the Executive Officer.

I. It is highly recommended that the Permittees cooperate, as appropriate, with other MS4 Permittees (including Orange County and San Bernardino County), the Southern California Coastal Water Research Project (SCCWRP), POTW operators, the dairy industry, the Santa Ana Watershed Project Authority (SAWPA), and other public and private organizations in the watershed to develop coordinated surface water quality monitoring programs, databases, and special studies.

II. OBJECTIVES

The overall goal of the Urban Runoff monitoring program is to support the development of an effective Urban Runoff management program. The following are the major objectives:

A. To identify those Receiving Waters, which, without additional action to control pollution from Urban Runoff that cannot reasonably be expected to achieve or maintain applicable water quality standards required to sustain the beneficial uses, the goals, and the objectives of the Basin Plan.

B. To develop and support an effective MS4 management program.

C. To identify significant water quality problems, related to discharges of Urban Runoff within the Permit Area.

D. To define water quality status, trends, and pollutants of concern associated with urban discharges and their impact on the beneficial uses of the Receiving Waters.

E. To analyze and interpret the collected data to determine the impact of Urban Runoff and/or validate any water quality models.

F. To characterize pollutants associated with Urban Runoff, and to assess the influence of urban land uses on Receiving Water quality and the beneficial uses of Receiving Waters.

G. Identify significant water quality problems related to urban storm water discharges.

H. To identify other sources of pollutants in storm water runoff to the maximum extent possible (e.g., including, but not limited to, atmospheric deposition, and contaminated sediments, other non-point sources, etc.)

I. To identify and prohibit illicit connections.

J. To identify and prohibit illicit discharges.

K. To verify and to identify sources of Urban Runoff pollutants.

L. To identify and prohibit illicit connections.

M. To verify and to control illegal discharges.

N. To evaluate the effectiveness of the DAMP and WQMPs, including an estimate of pollutant reductions achieved by the structural and nonstructural BMPs implemented by the Permittees.

O. To conduct monitoring in cooperation with San Bernardino County for investigation of bacteriological impairments in the upper Santa Ana River due to Urban Runoff.

P. To evaluate the costs and benefits of proposed Urban Runoff management programs to protect Receiving Water quality.

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III. MONITORING PROGRAM REQUIREMENTS

A. TMDL/303(d) Listed Waterbody Monitoring: The Permittees should continue to participate in the TMDL and Southern California Cooperative Storm Water Research/Monitoring programs as they relate to Urban Runoff. In addition, strategies shall be revised/developed to evaluate the impacts of Urban Runoff on identified impairments within the Santa Ana River watershed and other tributary 303(d) listed waterbodies.

B. The Permittees shall revise their CMP, within twelve (12) months of adoption of this Order. The revised CMP shall consider, at a minimum and include, the following monitoring components or their equivalent:

1. Mass Emissions Monitoring:

   a. An estimate of flow in cubic feet per second (cfs) from the outfall/stream at the time of sampling.

   b. Monitor mass emissions in Urban Runoff to: (a) estimate the total mass emissions from the MS4 to Receiving Waters; (b) assess trends in mass emissions associated with Urban Runoff over time; and (c) to determine if Urban Runoff is contributing to exceedances of water quality objectives or beneficial uses in Receiving Waters by comparing results to the Basin Plan.

   c. Representative samples from the first storm event and two more storm events shall be collected during the rainy season. A minimum of three dry-weather samples shall also be collected. Samples from the first rain event each year shall be analyzed for the entire suite of priority pollutants. All samples must be analyzed for metals, pH, TSS, TOC, pesticides/herbicides, and constituents that are known to have contributed to impairment of local receiving waters. Dry weather samples should also include an analysis for oil and grease. Sediments associated with mass emissions should be analyzed for constituents of concern identified in the water analyses.

2. Microbial Monitoring: A monitoring program to determine the sources of bacteriological contamination in the Upper Santa Ana River, is being developed in collaboration with the MS4 Permittees in San Bernardino County. This program associated with Urban Runoff shall include wet and dry weather monitoring, as appropriate, for bacteriological constituents in the Santa Ana River and its tributaries.

3. Water Column Toxicity Monitoring: Analyses for toxicity to aquatic species shall be performed on Receiving Water samples to determine the impacts of Urban Runoff on toxicity of Receiving Waters. *Ceriodaphnia dubia* fertilization, Fathead Minnow larval survival test, and Selenastrum Capricornutum growth test shall be used to evaluate toxicity on the sample from the first rain event, plus one other wet weather sample. In addition, where applicable collect two dry weather samples or propose equivalent procedures in the CMP. In addition,

criteria shall be identified which will trigger the initiation of Toxicity Identification Evaluations (TIEs) and Toxicity Reduction Evaluations (TREs).

4. Reconnaissance: The Permittees shall review and update their reconnaissance strategies to identify and prohibit illicit discharges. Where possible, the use of GIS to identify geographic areas with a high density of industries associated with gross pollution (e.g. electroplating industries, auto dismantlers) and/or locations subject to maximum sediment loss (e.g. new development) may be used to determine areas for intensive monitoring efforts. Additionally, the Permittees shall coordinate with the Regional Board to develop a comprehensive database to include enforcement actions for storm water violations and unauthorized, non-storm water discharges that can then be used to more effectively target reconnaissance efforts.

5. Land Use Correlations: The Permittees shall develop and implement strategies for determining the effects of urban land use on the quality of Receiving Waters. While it is recognized that a wide range of land uses exist across the region and within each sub-watershed, one relationship that may be determined is the impact of urban development on sediment loading within Receiving Waters, since developed areas contribute relatively little sediment loading compared to areas under construction. Consequently, the Permittees shall, at a minimum, analyze the impacts of increasing development and the conversion of agricultural land to urban land uses to the sediment loading of Canyon Lake, Lake Elsinore, and the Santa Ana River (Reaches 3 and 4).

6. Sources of Data: Where possible and applicable, data shall be obtained from monitoring efforts of other public or private agencies/entities (e.g., Caltrans).

7. Bioassessments: The development of an Index of Biological Integrity for Southern California. This shall include the selection and identification of appropriate bioassessment station locations, sampling scheme(s), and shall also be capable of attaining the objectives mentioned in Section II, above. The Permittees may develop bioassessments in coordination or cooperation with other parties as addressed in Section I.I., above.

C. Within twelve (12) months of adoption of this Order, the Permittees shall develop and submit for approval of the Executive Officer, their revised CMP, which should support the achievement of the above-stated goals. The implementation of the CMP shall be in accordance with the time schedules prescribed by the Executive Officer. At a minimum, the CMP shall address the following and any requirements developed by the State Board in accordance with Water Code Section 13383.5:

1. Uniform guidelines for quality control, quality assurance, data collection and data analysis.

2. A procedure for the collection, analysis, and interpretation of existing data from local, regional or national monitoring programs. These data sources may be utilized to characterize different sources of pollutants discharged to the MS4; to determine pollutant generation, transport and fate; to develop a relationship between land use, development size, storm size and the event mean

concentration of pollutants; to determine spatial and temporal variances in Urban Runoff quality and seasonal and other bias in the collected data; and to identify any unique features of the Permit Area. The Permittees are encouraged to use data from similar studies, if available.

3. A description of the CMP including:

   a. The number of monitoring stations;

   b. Monitoring locations within MS4s, major outfalls, and Receiving Waters;Environmental indicators (e.g., ecosystem, flow, biological, habitat, chemical, sediment, stream health, etc.) chosen for monitoring;

   c. Total number of samples to be collected from each station, frequency of sampling during wet and dry weather, short duration or long duration storm events, type of samples (grab, 24-hour composite, etc.), justification for composite versus discrete sampling, type of sampling equipment, quality assurance/quality control procedures followed during sampling and analysis, analysis protocols to be followed (including sample preparation and maximum reporting limits), and qualifications of laboratories performing analyses;

   d. A procedure for analyzing the collected data and interpreting the results including an evaluation of the effectiveness of the management practices, and need for any refinement of the WQMPs or the DAMP.

   e. Parameters selected for field screening and for laboratory work; and

   f. A description of the responsibilities of all the participants in this program, including cost sharing.

IV. REPORTING

A. All progress reports and proposed strategies and plans required by this Order shall be signed by the Principal Permittee, and copies shall be submitted to the Executive Officer under penalty of perjury.

B. The Permittees shall submit an Annual Report to the Executive Officer and to the Regional Administrator of the USEPA, Region 9, no later than November 30th, of each year. This progress report may be submitted in a mutually agreeable electronic format. At a minimum, the Annual Report shall include the following:

   1. A review of the status of program implementation and compliance (or non-compliance) with the schedules contained in this Order;

   2. An assessment of the effectiveness of control measures established under the illicit discharge elimination program and the DAMP. The effectiveness may be measured in terms of how successful the program has been in eliminating illicit connections/illegal discharges and reducing pollutant loads in Urban Runoff;

3. An assessment of any modifications to the WQMPs, or the DAMP made to comply with CWA requirements to reduce the discharge of pollutants to the MEP;

4. A summary, evaluation, and discussion of monitoring results from the previous year and any changes to the monitoring program for the following year;

5. A fiscal analysis progress report as described in Section XV, Provision B., of Order No. R8-2002-0011;

6. A draft work plan that describes the proposed implementation of the WQMPs and the DAMP for next fiscal year. The work plan shall include clearly defined tasks, responsibilities, and schedules for implementation of the storm water program and each Permittee's actions for the next fiscal year;

7. Major changes in any previously submitted plans/policies; and

8. An assessment of the Permittees compliance status with the Receiving Water Limitations, Section III of the Order, including any proposed modifications to the WQMPs or the DAMP if the Receiving Water Limitations are not fully achieved.

C. The Co-Permittees shall be responsible for the submittal of all required information/materials needed to comply with this order in a timely manner to the Principal Permittee. A duly authorized representative of the Co-Permittee under penalty of perjury shall sign all such submittals.

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REPORTING SCHEDULE

All reports required by this Order shall be submitted to the Executive Officer in accordance with the following schedule:

REFERENCE	ITEM	COMPLETION TIME AFTER PERMIT ADOPTION/FREQ.	REPORT DUE DATE
I.A.2.a. & I.B.2.a.	Management Steering Committee meetings to discuss permit implementation	Held at least quarterly	Annually on Nov. 30th
I.A.2.b. & I.B. .2.b.	Permittee Technical Committee meetings to discuss permit implementation	Held at least 10 times each year	Annually on Nov. 30th
I.B.2.a. & XIII.D.	Co-Permittees Participate in Management and Technical Committee meetings to discuss permit implementation	Attend at least 3 out of 4 Management and 8 out of 10 Technical meetings each year	Annually on Nov. 30th
III.E.1.	Notify Regional Board if Section III.E. discharges from MS4s cause exceedance of Receiving Water Quality Objectives.	---	2 working days Oral or e-mail notice and 10 days written from time of becoming aware of the situation.
III.E.4.	Modify DAMP	---	90 days after approval by Exec. Officer
III.E.6.	Report discovery of exceedances from outside sources.	---	2 working days Oral or e-mail notice and 10 days written from time of becoming aware of the situation.
IV.A.	Revise existing Implementation Agreement.	6 Months	Nov. of the year following adoption.
IV.B.	Evaluate Urban Runoff Management structure and Implementation Agreement annually.	Annually on Nov. 30th	Annually on Nov. 30th
V.C.	Determin if Permittees have provided their staff authority to impose fines.	6 Months	Nov. of the year following adoption.
V.D.	Enact ordinances or other local regulatory mechanisms that include sanctions to ensure compliance	18 Months.	Nov. of the second year following adoption.
V.F.	Provide a report on the effectiveness of their Storm Water Ordinances and their enforcement, in prohibiting illegal discharges to the MS4s	12 Months	Nov. of the year following adoption.
V.G.	Legal Authority & Enforcement Strategy, Certification	18 months.	Nov. of the second year following adoption.
VI.A.	Eliminate or Permit illicit connections	60 days from receipt of notice.	Nov. of the year received notice.
VI.B.	Investigate Spills, Leaks, and/or illegal discharges.	Within 24 hours of receipt of notice.	Nov. of the year received notice.

REFERENCE	ITEM	COMPLETION TIME AFTER PERMIT ADOPTION/FREQ.	REPORT DUE DATE
VI.D.	Evaluate available BMPs & recommend any improvements needed.	18 Months.	Nov. of the second year following adoption.
VI.E.	Litter/Trash Control Ordinance review	18 Months.	Nov. of the second year following adoption.
VII.B.	Develop mechanism to address septic system failures	12 Months.	Nov. of the year following adoption.
VII. C.	Review current oversight programs for portable toilets to determine the need for any revision	12 Months.	Nov. of the year following adoption.
VIII. A. 1	Establish a procedure to ensure local permits for proposed construction sites and industrial facilities are conditioned upon proof of obtaining coverage under the applicable General Storm Water Permit(s)/ San Jacinto Watershed Construction Activities Permit	6 months	Nov. of the year following adoption.
VIII. A.8	Review planning procedures and CEQA processes	12 Months	Nov. of the year following adoption.
VIII. A.9	Incorporate watershed protection principles and policies into the General Plan	26 Months	Nov. of the third year following adoption
VIII.A.10	Review and revise, as necessary, grading/erosion control ordinances to reduce erosion.	16 Months	Nov. of the second year following adoption.
VIII.A.11	Listing of BMPs for Construction	18 Months.	Nov. of the second year following adoption.
VIII.B.	Develop WQMP	20 Months.	Nov. of the third year following adoption.
VIII.B.4.	In the absence of an approved WQMP, the structural BMPs for all new development and significant redevelopment shall be sized to comply with one of the numeric sizing criteria given in Section VIII.B.5.	January 1, 2005	Nov. 30, 2005
VIII.B.6.b.(1).	Waiver and justification document submittal.	Within 30 days of issuance of waiver.	Nov. of year granted waiver.
IX.	Revise the E/CS	12 Months.	Nov. of the year following adoption.
IX.	Develop and update criteria in E/CS for inspection of Construction, Industrial and Commercial facilities, including site information, priority, and inspection information	12 Months.	Nov. of the year following adoption.
IX.A.1.	Develop and update a construction site database, including site information, priority, and inspection information	12 Months.	Nov. of the year following adoption.
IX.A.1.	Include Section VIII.B.1. criteria sites in database.	13 Months.	Nov. of the year following adoption.

REFERENCE	ITEM	COMPLETION TIME AFTER PERMIT ADOPTION/FREQ.	REPORT DUE DATE
IX.A.2.	Inspect all inventoried construction sites	12 Months.	Nov. of the year following adoption.
IX.A.6.	Public agency staff and contract field operations staff adequately trained for Construction Sites inspections.	12 Months existing employees, 6 months new employees, and annually thereafter.	Annually on Nov. 30th
IX.A.7., IX.B.6., & IX.C.10.	Report Emergency Situations	---	24 hours Oral or e-mail notice and 10 days written from time of notice
IX.A.8., IX.B.7., & IX.C.11.	Report Non-Emergency Situations	---	2 working days Oral or e-mail notice and 10 days written from time of notice
IX.B.1.	Develop and update an industrial facilities database, including facility information, priority, and inspection information	18 Months and annually thereafter.	Nov. of the second year following adoption.
IX.B.12, & IX.C.15.	Public agency staff and contract field operations staff adequately trained for inspection of Industrial and Commercial Facilities.	18 Months existing employees, 6 months new employees, and annually thereafter.	Annually on Nov. 30th
IX.C.1.	Develop and update a commercial site database, including facility information, priority, and inspection information	18 Months.	Nov. of the third year following adoption.
IX.C.2.	Update the commercial site database to include additional categories of commercial facilities	24 Months.	Nov. of the third year following adoption.
IX.C.3.	Revise CAP and Develop restaurant inspections program, which includes runoff, grease blockage, and spill reduction aspects.	12 Months.	Nov. of the year following adoption.
X.A.	Submit Public Comments received in response to modifications to reports, plans, or schedules.	Annually	Annually on Nov. 30th
X.B.	Sponsor at least one Urban Runoff public outreach.	Annually	Annually on Nov. 30th
X. C.	Establish Public Education Committee	6 Months.	Nov. of the year following adoption.
X. D.	Determine the best method to provide educational and General Industrial Activities Storm Water Permit materials to businesses within their jurisdiction	18 months and begin implementation procedures within 24 months.	Nov. of the third year following adoption.
X.E.	Propose and implement a public awareness survey	24 months	Nov. 2007.

REFERENCE	ITEM	COMPLETION TIME AFTER PERMIT ADOPTION/FREQ.	REPORT DUE DATE
X. F.	BMP guidance for restaurants, automotive service centers, and gasoline service stations, developed by Public Education Committee	12 Months	Nov. of the second year of adoption.
X.G.	Develop public education materials including reporting hot line and web site.	12 Months	Nov. 30, 2003
X. H	BMP guidance for control of potential polluting activities not otherwise regulated	18 Months.	Nov. of the year following adoption.
XI.B.	Develop BMPs for fire fighting training & equipment testing.	18 Months	Nov. of the year following adoption.
XI.C.	Review Municipal Facilities Strategy & Evaluate Environmental Performance Program applicability to municipal maintenance contracts, contract for field maintenance operations, and leases	Annually on August 1st	Nov. 30th
XI. D	Evaluate criteria for inspection and maintenance of MS4s.	6 months and Annually thereafter	Annually on Nov. 30th
XI.E.	Review opportunities to configure/reconfigure MS4s	20 months.	Nov. of the third year following adoption.
XI.F.	Develop Model Public Facility Maintenance Program for activities and drainage facilities.	12 months.	Nov. of the third year following adoption.
XI.G.	Implement program to clean out MS4s	12 Months	Nov. of the second year following adoption.
XI.H.	Failsafe Clean out Open Channel MS4s and Retention/Detention Basins schedule	November 1, 2004	Nov. 2005
XI.J.	Develop and distribute BMP guidance for public agency and contract field operations and maintenance staff	18 months	Nov. of the year following adoption.
XI.K.	Training provided on fertilizer and pesticide management and other pollution control measures	Annually (Staff attend @ least 3 out of 5).	Annually on Nov. 30th
XI.L.	Identify areas that are not subject to street sweeping due to lack of continuous curb and gutter, and evaluate their potential for impacting Urban Runoff quality.	Nov. 2004	Nov. 2004
XI.M.	Evaluate street/road sweeping frequency	Annually	Annually on Nov. 30th
XI.O.	Status report on flood control facilities in the Chino-Corona agricultural preserve area.	Annually	Annually on Nov. 30th
XII.B.	Comply with the requirements for municipal construction projects that may result in land disturbance greater than one acre.	March 10, 2003	Nov. of the year following adoption.
XIII.A.	Revise the DAMP	6 months after WQMP approval or Jan. 1, 2005	Nov. 2005.
XIII.C.	Evaluate the DAMP for additional revision.	Annually on August 1st	Nov. 30th

REFERENCE	ITEM	COMPLETION TIME AFTER PERMIT ADOPTION/FREQ.	REPORT DUE DATE
XV.A.5	Unless otherwise specified complete changes to plans or programs in this Order.	12 Months	Nov. of the year following adoption.
XV.B.	Annual Report/Fiscal Analysis	Annually	Nov. 30th
XVI.A.	Report of Waste Discharge	180 days before permit expires	April 27, 2007
Appendix 3 I.G.	Identify monitoring locations for interim monitoring.	6 Months	Nov. of the year following adoption.
Appendix 3 I.H, III.B. & III.C.	Revise CMP	12 Months	Nov. of the year following adoption.
Appendix 3. IV.B.	Summary, evaluation, and discussion of monitoring results and re-evaluate monitoring program priorities based on previous year's data	Annually, Nov.30th	Nov. 30th

Ordered by_____
Gerard J. Thibeault
Executive Officer
October 25, 2002

APPENDIX 4

GLOSSARY

ORDER NO. R8-2002-0011

APPENDIX 4

GLOSSARY

Annual Report - Pursuant to each NPDES MS4 permit issued by the Regional Board to the Permittees, there is a requirement that an Annual Report be filed with the Regional Board on or before each November 30th.

APN - Assessor's parcel number

Basin Plan - Water Quality Control Plan developed by the Regional Board for the Santa Ana River Watershed.

BAT [Best Available Technology] – BAT is the technology-based standard established by Congress in CWA section 402(p)(3)(A) for industrial dischargers of storm water. Technology-based standards establish the level of pollutant reductions that dischargers must achieve, typically by treatment or by a combination of source controls and structural treatment BMPs. For example, secondary treatment (or the removal of 85% suspended solids and BOD) is the BAT for suspended solid and BOD removal from a sewage treatment plant. BAT generally emphasizes treatment methods first and pollution prevention and source control BMPs secondarily.

The best economically achievable technology that will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants is determined in accordance with regulations issued by the USEPA Administrator. Factors relating to the assessment of BAT shall take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, non-water quality environmental impact (including energy requirements), and such other factors as the permitting authority deems appropriate.

BCT [Best Conventional Technology] – BCT is the treatment techniques, processes and procedure innovations, and operating methods that eliminate or reduce chemical, physical, and biological pollutant constituents.

Beneficial Uses – The uses of water necessary for the survival or well being of man, plants, and wildlife. These uses of water serve to promote the tangible and intangible economic, social, and environmental goals. “Beneficial Uses” that may be protected against include, but are not limited to: domestic, municipal, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves. Existing beneficial uses are uses that were attained in the surface or ground water on or after November 28, 1975; and potential beneficial uses are uses that would probably develop in future years through the implementation of various control measures. “Beneficial Uses” are equivalent to “Designated Uses” under federal law. [California Water Code Section 13050(f)].

Biological Integrity – Defined in Karr J.R. and D.R. Dudley. 1981. Ecological perspective on water quality goals. Environmental Management 5:55-68 as: “A

balanced, integrated, adaptive community of organisms having a species composition, diversity, and functional organization comparable to that of natural habitat of the region." Also referred to as ecosystem health.

BMP [Best Management Practices] – Defined in 40 CFR 122.2 as schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of Waters of the U.S. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. In the case of MS4 permits, BMPs are typically used in place of numeric effluent limits.

Caltrans - California Department of Transportation

CAP - Compliance Assistance Program developed and funded by the Permittees.

CEQA - California Environmental Quality Act (Section 21000 et seq. of the California Public Resources Code.

"cleaning" - The removal of litter or debris that can impact Receiving Waters.

CMP - Consolidated Program for Water Quality Monitoring

Conditions of Concern - Scour, erosion (sheet, rill and/or gully), aggradation (raising of a streambed from sediment deposition), changes in fluvial geomorphology, hydrology and changes in aquatic ecosystem.

Construction Activity Permits – Collectively, the General Construction Activity Storm Water Permit and the San Jacinto Watershed Construction Activities Permit.

"contamination" – As defined in the Porter-Cologne Water Quality Control Act, contamination is "an impairment of the quality of waters of the State by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease." 'Contamination' includes any equivalent effect resulting from the disposal of waste whether or not Waters of the U.S. are affected.

Co-Permittees - County of Riverside and the cities of Beaumont, Calimesa, Canyon Lake Corona Hemet, Lake Elsinore, Murrieta, Moreno Valley Norco, Perris, Riverside, and San Jacinto.

County - County of Riverside, legal entity

CWA - Federal Clean Water Act

DAMP [Drainage Area Management Plan] - The DAMP is a programmatic document developed by the Permittees and approved by the Executive Officer that outlines the major programs and policies that the Permittees individually and/or collectively implement to manage Urban Runoff in the Permit Area.

E/CS - Enforcement Compliance Strategy developed by the Permittees dated December 20, 2001.

"effluent limitations" – Limitations on the volume of each waste discharge and the quantity and concentrations of pollutants in the discharge. The limitations are designed to ensure that the discharge does not cause water quality objectives to be exceeded in the receiving water and does not adversely affect beneficial uses.

Effluent limitations are limitations of the quantity and concentrations of pollutants in a discharge. The limitations are designed to ensure that the discharge does not cause water quality objectives to be exceeded in the receiving water and does not adversely affect beneficial uses. In other words, an effluent limit is the maximum concentration of a pollutant that a discharge can contain. To meet effluent limitations, the effluent typically must undergo one or more forms of treatment to remove pollutants in order to lower the pollutant concentration below the limit. Effluent limits are typically numeric (e.g., 10 mg/l).

Emergency Situation – At a minimum, sewage spills that could impact water contact recreation, all sewage spills above 1,000 gallons, an oil spill that could impact wildlife, a hazardous material spill where residents are evacuated, all reportable quantities of hazardous waste spills as per 40CFR 117 and 302, and any incident reportable to the OES (1-800-852-7550).

Executive Officer - The Executive Officer of the Regional Board

General Construction Activity Storm Water Permit - State Board Order No. 99-08 DWQ (NPDES No. CAS000002)

General Dairy Permit - Regional Board Order No. 99-11 (NPDES No. CAG018001) for concentrated animal feeding operations

General Industrial Activities Storm Water Permit - State Board Order No. 97-03 DWQ (NPDES No. CAS000001)

General Storm Water Permits - General Industrial Activities Storm Water Permit and General Construction Activity Storm Water Permit.

GIS – Geographical Information Systems.

"hazardous material" – Any substance that poses a threat to human health or the environment due to its toxicity, corrosiveness, ignitability, explosive nature or chemical reactivity. These also include materials named by the USEPA to be reported if a designated quantity of the material is spilled into the Waters of the U.S. or emitted into the environment.

" illegal discharge" – Illegal discharge means any disposal, either intentionally or unintentionally, of material or waste to land or MS4s that can pollute storm water or create a nuisance. The term illegal discharge includes any discharge to the MS4 that is

not composed entirely of storm water, except discharges pursuant to an NPDES permit, discharges that are identified in Section II. C. of this Order, and discharges authorized by the Executive Officer.

"illicit connection" - Illicit Connection means any connection to the storm drain system that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. The term illicit connection includes all non storm-water discharges and connections except discharges pursuant to an NPDES permit, discharges that are identified in Section II, Discharge Limitations/Prohibitions, of this Order, and discharges authorized by the Executive Officer.

Impaired Waterbody – Section 303(b) of the CWA requires each of California's Regional Water Quality Control Boards to routinely monitor and assess the quality of waters of their respective regions. If this assessment indicates that beneficial uses are not met, then that waterbody must be listed under Section 303(d) of the CWA as an impaired waterbody. The 1998 water quality assessment listed a number of water bodies within the Permit Area as impaired pursuant to Section 303(d). In the Permit Area, these include: Canyon Lake (for nutrients and pathogens); Lake Elsinore (for nutrients, organic enrichment/low D.O., unknown toxicity and sedimentation); Lake Fulmor (for pathogens); Santa Ana River, Reach 3 (for nutrients, pathogens, salinity, TDS, and chlorides); and Santa Ana River, Reach 4 (for pathogens).

Implementation Agreement - NPDES Storm Water Discharge Permit - Implementation Agreement dated November 12, 1996 by and among the Permittees.

"impressions" - The most common measure is "gross impressions" that includes repetitions. This means if the same person sees an advertisement or hears a radio or sees a TV advertisement a thousand times, that will be counted as 1000 impressions. There are independent auditing agencies (e.g., Nielsen Rating) that perform this task and provide you with the numbers. In most cases, when you buy an advertisement in any media, they will provide you this number.

LA - Load allocations

Management Steering Committee - A committee to address Urban Runoff management policies for the Permit Area and coordinate the review and necessary revisions of the DAMP and Implementation Agreement.

MEP [Maximum Extent Practicable] – There is no statutory or regulatory definition for MEP. The CWA section 402(p)(3)(B)(iii) requires that MS4 permits "shall require controls to reduce the discharge of pollutants to the MEP, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants…" However, there has been several interpretations that have been provided including:

1. MEP means that when considering and choosing BMPs to address an identified pollution problem, the municipality is to consider the following: technical feasibility, effectiveness, compliance with regulatory standards, cost, and public acceptance. The BMP chosen must achieve greater or substantially the same pollution control

benefit as identified in the manuals developed by the California Storm Water Quality Task Force (Proposed by Permittees).

2. MEP means to the maximum extent feasible, taking into account considerations of synergistic, additive, and competing factors, including but not limited to, gravity of the problem, technical feasibility fiscal feasibility, public health risks, societal concerns, and social benefits. (Order R8-2001-10 Orange County MS4 Permit)

3. MEP is the technology-based standard established by Congress in CWA Section 402(p)(3)(B)(iii) that municipal dischargers of storm water (MS4s) must meet. Technology-based standards establish the level of pollutant reductions that dischargers must achieve, typically by treatment or by a combination of treatment and BMPs. MEP generally emphasizes pollution prevention and source control BMPs primarily (as the first line of defense) in combination with treatment methods serving as a backup (additional line of defense). MEP considers economics and is generally, but not necessarily, less stringent than BAT. A definition for MEP is not provided either in the statute or in the regulations. Instead the definition of MEP is dynamic and will be defined by the following process over time: municipalities propose their definition of MEP by way of their Water Quality Management Plan. Their total collective and individual activities conducted pursuant to the Water Quality Management Plan becomes their proposal for MEP as it applies both to their overall effort, as well as to specific activities (e.g., MEP for street sweeping, or MEP for municipal separate storm sewer system maintenance). In the absence of a proposal acceptable to the SARWQCB, the SARWQCB defines MEP.

4. In a memo dated February 11, 1993, entitled "Definition of Maximum Extent Practicable," Elizabeth Jennings, Senior Staff Counsel, SWRCB addressed the achievement of the MEP standard as follows:

   "*To achieve the MEP standard, municipalities must employ whatever Best Management Practices (BMPs) are technically feasible (i.e., are likely to be effective) and are not cost prohibitive. The major emphasis is on technical feasibility. Reducing pollutants to the MEP means choosing effective BMPs, and rejecting applicable BMPs only where other effective BMPs will serve the same purpose, or the BMPs would not be technically feasible, or the cost would be prohibitive. In selecting BMPs to achieve the MEP standard, the following factors may be useful to consider:*

   a. *Effectiveness: Will the BMPs address a pollutant (or pollutant source) of concern?*
   b. *Regulatory Compliance: Is the BMP in compliance with storm water regulations as well as other environmental regulations?*
   c. *Public Acceptance: Does the BMP have public support?*
   d. *Cost: Will the cost of implementing the BMP have a reasonable relationship to the pollution control benefits to be achieved?*
   e. *Technical Feasibility: Is the BMP technically feasible considering soils, geography, water resources, etc?*

The final determination regarding whether a municipality has reduced pollutants to the maximum extent practicable can only be made by the Regional or State Water Boards,

and not by the municipal discharger. If a municipality reviews a lengthy menu of BMPs and chooses to select only a few of the least expensive, it is likely that MEP has not been met. On the other hand, if a municipal discharger employs all applicable BMPs except those where it can show that they are not technically feasible in the locality, or whose cost would exceed any benefit derived, it would have met the standard. Where a choice may be made between two BMPs that should provide generally comparable effectiveness, the discharger may choose the least expensive alternative and exclude the more expensive BMP. However, it would not be acceptable either to reject all BMPs that would address a pollutant source, or to pick a BMP base solely on cost, which would be clearly less effective. In selecting BMPs the municipality must make a serious attempt to comply and practical solutions may not be lightly rejected. In any case, the burden would be on the municipal discharger to show compliance with its permit. After selecting a menu of BMPs, it is the responsibility of the discharger to ensure that all BMPs are implemented."

MS4 - [Municipal Separate Storm Sewer System] – An MS4 is a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, natural drainage features or channels, modified natural channels, man-made channels, or storm drains): (i) Owned or operated by a State, city town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or designated and approved management agency under section 208 of the CWA that discharges to Waters of the U.S.; (ii) Designated or used for collecting of conveying storm water; (iii) Which is not a combined sewer; (iv) Which is not part of the POTW as defined at 40 CFR 122.2.

Historic and current developments make use of natural drainage patterns and features as conveyances for urban runoff. Urban streams used in this manner are part of the municipalities MS4 regardless of whether they are natural, man-made, or partially modified features. In these cases, the urban stream is both an MS4 and a receiving water.

Municipal Facilities Strategy - Each Permittee's plan to address potential impacts to Urban Runoff quality from its facilities and activities as required by Order No. 96-730.

New Development – The categories of development identified in subsections VIII.B.1.b. New developments do not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of a facility, nor do they include emergency new developments required to protect public health and safety. Dischargers should confirm with Regional Board staff whether or not a particular routine maintenance activity is subject to this Order.

NOI [Notice of Intent] - A NOI is an application for coverage under either General Stormwater Permits or the San Jacinto Watershed Construction Activities Permit.

"non-point source" - Non-point source refers to diffuse, widespread sources of pollution. These sources may be large or small, but are generally numerous throughout a watershed. Non-point sources, include but are not limited to urban, agricultural or

industrial area, roads, highways, construction sites, communities served by septic systems, recreational boating activities, timber harvesting, mining, livestock grazing, as well as physical changes to stream channels, and habitat degradation. Non-point source pollution can occur year round any time rainfall, snowmelt, irrigation, or any other source of water runs over land or through the ground, picks up pollutants from these numerous, diffuse sources and deposits them into rivers, lakes and coastal waters or introduces them into ground water.

"non-storm water" – Non-storm water consists of all discharges to and from a storm water conveyance system that do not originate from precipitation events (i.e., all discharges from a conveyance system other than storm water). Non-storm water includes illicit discharges, non-prohibited discharges and NPDES permitted discharges. An illicit discharge is defined at 40 CFR 122.26(b)(2) as any discharge to a MS4 that is not composed entirely of storm water except discharges pursuant to a separate NPDES permit and discharges resulting from emergency fire fighting activities.

NPDES [National Pollutant Discharge Elimination System] – Permits issued under Section 402(p) of the CWA for regulating discharge of pollutants to Waters of the U.S.

"nuisance" – As defined in the Porter-Cologne Water Quality Control Act a nuisance is "anything which meets all of the following requirements: 1) Is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. 2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal. 3) Occurs during, or as a result of, the treatment or disposal of wastes."

"numeric effluent limitations" – A method by which "effluent limitations," see above, are prescribed for pollutants in waste discharge requirements using concentration based criteria to implement the federal NPDES regulations. When numeric effluent limits are met at the "end-of-pipe," the effluent discharge generally will not cause water quality standards to be exceeded in the receiving waters (i.e., water quality standards will also be met).

OES - Office of Emergency Services

Order - Order No. R8-2002-0011 (NPDES No. CAS618033)

Permit Area - The portion of the Santa Ana River Watershed that is within the County of Riverside and identified on Appendix 1 as "Urban Area" and those portions of "Agriculture" and "Open Space", as identified on Appendix 1, that do convert to industrial, commercial, or residential use during the term of the Order

Permittees - Co-Permittees and the Principal Permittee

"person" or **"party"** – A person is defined as an individual, association, partnership, corporation, municipality, State or Federal agency, or an agent or employee thereof. [40 CFR 122.2].

"point source" – Any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operations, landfill leachate collection systems, vessel, or other floating craft from which pollutants are or may be discharged.

"pollutant" – A pollutant is broadly defined as any agent that may cause or contribute to the degradation of water quality such that a condition of pollution or contamination is created or aggravated.

Pollutants of Concern – A list of potential pollutants to be analyzed for in the Monitoring and Reporting Program. This list shall include: TSS, total inorganic nitrogen, total phosphorus, soluble reactive phosphorus, acute toxicity, fecal coliform, total coliform, pH, and chemicals/potential pollutants expected to be present on the project site. In developing this list, consideration should be given to the chemicals and potential pollutants available for storm water to pick-up or transport to Receiving Waters, all pollutants for which a waterbody within the Permit Area that has been listed as impaired under CWA Section 303(d)), the category of development and the type of pollutants associated with that development category.

"pollution" – As defined in the Porter-Cologne Water Quality Control Act, pollution is the alteration of the quality of the Waters of the U.S. by waste, to a degree that unreasonably affects either of the following: A) the waters for beneficial uses; or 2) facilities that serve these beneficial uses. Pollution may include contamination.

"pollution prevention" – Pollution prevention is defined as practices and processes that reduce or eliminate the generation of pollutants, in contrast to source control, treatment, or disposal.

"post-construction BMPs" – A subset of BMPs including source control and structural treatment BMPs which detain, retain, filter or educate to prevent the release of pollutants to surface waters during the final functional life of development.

POTW - Publicly owned treatment works

Preserve Area - Chino-Corona Agricultural Preserve Area

Principal Permittee - Riverside County Flood Control and Water Conservation District.

Public Education Committee - A committee to be established by the Permittees pursuant to Section X.C. of this Order to provide oversight and guidance for the implementation of the public education program.

Rainy Season – October 1 through May 31st of each year.

RCFC&WCD - Riverside County Flood Control and Water Conservation District

"receiving water(s)" – The Waters of the U.S. that includes surface and ground waters.

Receiving Water(s) - The receiving waters within the Permit Area

Receiving Water Limitations – Receiving Water Limitations are requirements included in this Order issued by the Regional Board to assure that the regulated discharges do not violate water quality standards established in the Basin Plan at the point of discharge to Waters of the U.S. Receiving Water Limitations are used to implement the requirement of CWA section 301(b)(1)(C) that NPDES permits must include any more stringent limitations necessary to meet water quality standards.

Receiving Water Quality Objectives - Water quality objectives specified in the Basin Plan for Receiving Waters.

Region - Santa Ana River Watershed

Regional Board - California Regional Water Quality Control Board, Santa Ana Region

Riverside County - Territory within the geographical boundaries of the County.

ROWD - Report of Waste Discharge, Application No. CAS 618033

San Jacinto Watershed Construction Activities Permit - Regional Board Order No. 01-34, adopted January 19, 2001

"sediment" – Soil, sand, and minerals washed from land into water. Sediment resulting from anthropogenic sources (i.e. human induced land disturbance activities) is considered a pollutant. This Order regulates only the discharges of sediment from anthropogenic sources and does not regulate naturally occurring sources of sediment. Sediment can destroy fish-nesting areas, clog animal habitats, and cloud waters so that sunlight does not reach aquatic plants.

SIC - Standard Industrial Code

Significant Redevelopment - defined in Section VIII.B.1.a.

"source control BMPs" – In general, activities or programs to educate the public or provide low cost non-physical solutions, as well as facility design or practices aimed to limit the contact between pollutant sources and stormwater or authorized non-storm water. Examples include: activity schedules, prohibitions of practices, street sweeping, facility maintenance, detection and elimination of illicit connections and illegal dumping, and other non-structural measures. Facility design examples include providing attached lids to trash containers, or roof or awning over material and trash storage areas to prevent direct contact between water and pollutants. Additional examples are provided in Section 4 of Supplement A to the DAMP dated April 1996.

State Board - California Water Resources Control Board

"storm water" – Runoff from urban, open space, and agricultural areas consisting only of those discharges that originates from precipitation events. Storm water is that portion of precipitation that flows across a surface to the MS4 or receiving waters. Examples of this phenomenon include: the water that flows off a building's roof when it rains (runoff from an impervious surface); the water that flows into streams when snow on the ground

begins to melt (runoff from a semi-pervious surface); and the water that flows from a vegetated surface when rainfall is in excess of the rate at which it can infiltrate into the underlying soil (runoff from a pervious surface). During precipitation events in urban areas, rain water picks up and transports pollutants through storm water conveyance systems, and ultimately to Waters of the U.S.

Storm Water Ordinance - The Storm Water/Urban Runoff Management and Discharge Control Ordinances and ordinances addressing grading and erosion control adopted by each of the Co-Permittees

"structural BMPs" – Physical facilities or controls which may include secondary containment, treatment measures, (e.g. first flush diversion, detention/retention basins, and oil/grease separators), run-off controls (e.g., grass swales, infiltration trenches/basins, etc.), and engineering and design modification of existing structures. Additional examples are provided in Section 4 of Supplement A to the Riverside County DAMP dated April 1996.

Subdivision Map Act - Section 65000 et seq. of the California Government Code

Supplement A - Supplement A to the DAMP that is entitled "New Development Guidelines" and the attachment thereto entitled "Selection and Design of Storm Water Quality Controls."

SWPPP - Storm Water Pollution Prevention Plan

TDS - Total dissolved solids.

Technical Committee - A Permittee staff committee to direct the development of the DAMP and direct the implementation of the overall Urban Runoff program as described in the ROWD.

TMDL [Total Maximum Daily Load] – TMDL is the maximum amount of a pollutant that can be discharged into a water body from all sources (point and non-point) and still maintain water quality standards. Under CWA Section 303(d), TMDLs must be developed for all water bodies that do not meet water quality standards after application of technology-based controls.

"toxicity" – Adverse responses of organisms to chemicals or physical agents ranging from mortality to physiological responses such as impaired reproduction or growth anomalies.

TSS - Total suspended solids.

Uncontaminated Pumped Groundwater - Groundwater that meets the surface water quality objectives specified in the Basin Plan to which it is proposed to be discharged.

Urban Runoff – Urban Runoff includes those discharges from residential, commercial, industrial, and construction areas within the Permit Area and excludes discharges from feedlots, dairies, farms, and open space. Urban Runoff discharges consist of storm water and non-storm water surface runoff from drainage sub-areas with various, often

mixed, land uses within all of the hydrologic drainage areas that discharge into the Waters of the U. S. In addition to Urban Runoff, the MS4s regulated by this Order receive flows from agricultural activities, open space, state and federal properties and other non-urban land uses not under the control of the Permittees. The quality of the discharges from the MS4s varies considerably and is affected by, among other things, past and present land use activities, basin hydrology, geography and geology, season, the frequency and duration of storm events, and the presence of past or present illegal and allowed disposal practices and illicit connections.

The Permittees lack legal jurisdiction over storm water discharges into their respective MS4s from agricultural activities, California and federal facilities, utilities and special districts, Native American tribal lands, wastewater management agencies and other point and non-point source discharges otherwise permitted by or under the jurisdiction of the Regional Board. The Regional Board recognizes that the Permittees should not be held responsible for such facilities and/or discharges. Similarly, certain activities that generate pollutants present in Urban Runoff are beyond the ability of the Permittees to eliminate. Examples of these include operation of internal combustion engines, atmospheric deposition, brake pad wear, tire wear, residues from lawful application of pesticides, nutrient runoff from agricultural activities, and leaching of naturally occurring minerals from local geography.

USEPA - United States Environmental Protection Agency

"waste" – As defined in Water Code Section 13050(d), “waste includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal.”

Article 2 of CCR Title 23, Chapter 15 (Chapter 15) contains a waste classification system that applies to solid and semi-solid waste that cannot be discharged directly or indirectly to waters of the state and which therefore must be discharged to land for treatment, storage, or disposal in accordance with Chapter 15. There are four classifications of waste (listed in order of highest to lowest threat to water quality): hazardous waste, designated waste, non-hazardous solid waste, and inert waste.

Waste Discharge Requirements – As defined in Section 13374 of the California Water Code, the term "waste discharge requirements” is the equivalent of the term "permits" as used in the Federal Water Pollution Control Act, as amended. The Regional Board usually reserves reference to the term “permit” to Waste Discharge Requirements for discharges to surface Waters of the U.S.

Water Code - California Water Code

Waters of the U.S. – Waters of the U.S. can be broadly defined as navigable surface waters and all tributary surface waters to navigable surface waters. Groundwater is not considered to be a Waters of the U.S. As defined in 40 CFR 122.2, the Waters of the U.S. are defined as: (a) All waters, which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; (b) All interstate waters, including interstate

"wetlands;" (c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation or destruction of which would affect or could affect interstate or foreign commerce including any such waters: (1) Which are or could be used by interstate or foreign travelers for recreational or other purposes; (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or (3) Which are used or could be used for industrial purposes by industries in interstate commerce; (d) All impoundments of waters otherwise defined as Waters of the U.S. under this definition**:** (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition; (f) The territorial seas; and (g) "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition. Waters of the U.S. do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the CWA, the final authority regarding CWA jurisdiction remains with the USEPA.

"water quality objectives" – Numerical or narrative limits on constituents or characteristics of water designated to protect designated beneficial uses of the water [California Water Code Section 13050 (h)]. California's water quality objectives are established by the State/Regional Water Boards in the Water Quality Control Plans.
As stated in the Porter-Cologne requirements for discharge (CWC 13263): "(Waste discharge) requirements shall implement any relevant water quality control plans that have been adopted, and shall take into consideration the beneficial uses to be protected, the water objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and the provisions of Section 13241."

Numeric or narrative limits for pollutants or characteristics of water designed to protect the beneficial uses of the water. In other words, a water quality objective is the maximum concentration of a pollutant that can exist in a Receiving Water and still generally ensure that the beneficial uses of the Receiving Water remain protected (i.e., not impaired). Since water quality objectives are designed specifically to protect the beneficial uses, when the objectives are violated the beneficial uses are, by definition, no longer protected and become impaired. This is a fundamental concept under the Porter Cologne Act. Equally fundamental is Porter Cologne's definition of pollution. A condition of pollution exists when the water quality needed to support designated beneficial uses has become unreasonably affected or impaired; in other words, when the water quality objectives have been violated. These underlying definitions (regarding beneficial use protection) are the reason why all waste discharge requirements implementing the federal NPDES regulations require compliance with water quality objectives. (Water quality objectives are also called water quality criteria in the CWA.)

"water quality standards" – are defined as the water quality goals of a waterbody (or a portion of the waterbody) designating beneficial uses (e.g., swimming, fishing, municipal drinking water supply, etc.,) to be made of the water and the water quality objectives or criteria necessary to protect those uses.

"watershed" – That geographical area which drains to a specified point on a watercourse, usually a confluence of streams or rivers (also known as drainage area, catchments, or river basin).

WLA - Waste load allocations

WQMP – Water Quality Management Plan as discussed in Section VIII.B. of the Order.

APPENDIX 5

NOTICE OF INTENT AND NOTICE OF TERMINATION

ORDER NO. R8-2002-0011

September 25, 2002 DRAFT – Appendix 5

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD – SANTA ANA REGION

NOTICE OF INTENT

TO COMPLY WITH THE TERMS OF THE RIVERSIDE COUNTY MUNICIPAL STORMWATER PERMIT FOR STORMWATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITIES

ORDER No. R8-2002-0011 (NPDES No. CAS618033)

MARK ONLY ONE ITEM 1. ☐ New Construction 2. ☐ Reconstruction 3. ☐ Change of Information for WDID#

I. OWNER

Name	Contact Person		
Mailing Address	Title		
City	State	Zip	Phone ( ) –

II. CONTRACTOR INFORMATION

Name	Contact Person		
Local Mailing Address	Title		
City	State	Zip	Phone ( ) –

III. SITE INFORMATION

A. Project Title	Site Address		
City	State	Zip	Phone ( ) –
B. Construction commencement date: (Month / Day / Year)	C. Projected construction completion date: (Month / Day / Year)		

D. Type of Work: ☐ Utility ☐ Flood Control ☐ Transportation ☐ Other (Specify) Description of Work: _____	E. Total size of site: _____ Acres

IV. RECEIVING WATER INFORMATION

A. Does the storm water runoff from the construction site discharge to (Check all that apply):
1. ☐ Indirectly to waters of the U.S.
2. ☐ Storm drain system - Enter owner's name:_____
3. ☐ Directly to waters of U.S. (e.g., river, lake, creek, stream, bay, ocean, etc.)

V. IMPLEMENTATION OF NPDES PERMIT REQUIREMENTS

A. STORM WATER POLLUTION PREVENTION PLAN (SWPPP) (mark one)	B. MONITORING PROGRAM (MP) (mark one)
☐ A SWPPP has been prepared for this facility and is available for review ☐ A SWPPP will be prepared and ready for review by (date): ___/___/___	☐ A MP has been prepared for this facility and is available for review ☐ A MP will be prepared and ready for review by (date): ___/___/___

VI. CERTIFICATIONS

"I certify under penalty of law that this document and all attachments were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment. In addition, I certify that Section XII of Order No. R8-2002-0011, including the development and implementation of a Storm Water Pollution Prevention Plan and a Monitoring Program Plan, will be complied with."

Printed Name: _____ **Title:** _____

Signature: _____ **Date:** _____

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD – SANTA ANA REGION

NOTICE OF TERMINATION

OF COVERAGE UNDER THE RIVERSIDE COUNTY MUNICIPAL STORMWATER PERMIT
FOR STORMWATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITY

ORDER No. R8-2002-0011 (NPDES No. CAS618033)

I. OWNER

Name	Contact Person		
Mailing Address	Title		
City	State	Zip	Phone ( ) –

II. SITE INFORMATION

A. Project Title	Site Address		
City	State	Zip	Phone ( ) –
B. Contractor Name	Contact Person		
Local Mailing Address	Title		
City	State	Zip	Phone ( ) –

III. BASIS OF TERMINATION

__ 1. The construction project is completed and the following conditions have been met.
- ✓ All elements of the Storm Water Pollution Prevention Plan have been completed.
- ✓ Construction materials and waste have been disposed of properly.
- ✓ The site is in compliance with all local storm water management requirements.
- ✓ A post-construction storm water operation and management plan is in place.

__ 2. Construction activities have been suspended, either temporarily ____ or indefinitely ___ and the following conditions have been met.
- ✓ All elements of the Storm Water Pollution Prevention Plan have been completed.
- ✓ Construction materials and waste have been disposed of properly.
- ✓ An effective combination of erosion and sediment control is in place for all denuded areas and other areas of potential erosion.
- ✓ The site is in compliance with all local storm water management requirements.

Date of suspension ____ / ____ / ____ Expected start up date ____ / ____ / ____

IV. CERTIFICATION

I certify under penalty of law that all storm water discharges associated with construction activity from the identified site that are authorized by NPDES General Permit No. CAS000002 have been eliminated or that I am no longer the owner of the site. I understand that by submitting this Notice of Termination, I am no longer authorized to discharge storm water associated with construction activity under the General Permit, and that discharging pollutants in storm water associated with construction activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by a NPDES permit. I also understand that the submittal of this Notice of Termination does not release an owner of liability for any violation of the General Permit or the Clean Water Act.

Printed Name: _____ **Title:** _____

Signature: _____ **Date:** _____

RESPONSE TO COMMENTS
Tentative Order No. R8-2002-0011
NPDES No. CAS 618033
Riverside COUNTY
MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PERMIT

Comment letters were received from the following:

I. First Draft – March 22, 2002

A. Permittees- Riverside County Flood Control and Water Conservation District (RCFC&WCD) (May 10, 2002) – Comments 1 – 39

B. Riverside County Board of Supervisors (May 10, 2002) – Comments 30 – 33

C. Response to "Handouts" at the May 31, 2002 Workshop – Comment 34

D. City of Lake Elsinore (May 10, 2002) – Comment 35

E. City of Perris (May 10, 2002) – Comments 36

F. Natural Resources Defense Council (May 9, 2002) – Comments 37 - 82

G. Construction Industry Coalition on Water Quality (May 13, 2002) – Comments 83 – 98

H. Sempra Energy (May 30, 2002) – Comments 99 – 105

I. Response to Southern California Water Quality Coalition (May 31, 2002) - Comments 106 - 110

J. Megan Fischer – San Diego Regional Water Quality Control Board (April 17, 2002) – Comment 111

II. RESPONSE TO COMMENTS ON THE SECOND DRAFT (August 23, 2002)

Natural Resources Defense Council (September 22, 2002) – Comments 112 - 127

September 25, 2002
1st Revision October 10, 2002

I. RESPONSE TO COMMENTS ON THE FIRST DRAFT (March 22, 2002)

(Most of the comments are verbatim from the comment letters)

A. RESPONSE TO (RCFC&WCD) (May 10, 2002):

1. **Comment: <u>Impairments of Receiving Water Quality in Western Riverside County are Limited:</u>** *The water quality impairments identified by the Regional Board are summarized in the Draft 2002 California 303(d) List and TMDL Priority Schedule. The only impairment identified as associated with an urban source in the Permitted Area is sedimentation/siltation in Lake Elsinore. However, it is unclear how even this impairment could be related to urban sources as there is no urban development between Canyon Lake and Lake Elsinore. Nevertheless, the affected Permittees are actively participating with the Regional Board in the development of a TMDL to address this impairment. In addition, the Regional Board has adopted the San Jacinto Watershed Construction Activities Storm Water Permit to address this impairment pending development of the TMDL.*

   <u>Response:</u> It is a well established fact[1] that urban runoff, including storm water, adversely impacts water quality. The MS4 program was established to control the discharge of pollutants in urban runoff to the maximum extent practicable (MEP). The federal statutes and the U.S. EPA regulations require the municipalities to control pollutants in urban runoff irrespective of whether the discharge is to impaired waters or not.[2]

   Also, please note that in many cases the exact cause of impairment was not fully identified prior to listing a waterbody on the 303(d) list. So it may be premature to conclude that Lake Elsinore is the only waterbody within the permitted area that is impacted by urban runoff.

   The storm water statutes and regulations are not only to address current impairment, but also to prevent future problems. The San Jacinto Construction Activities Storm Water Permit only addresses pollutants from construction activities; the MS4 permit regulates the discharge of pollutants from all sources that may have an impact on urban storm water quality.

2. **Comment: <u>Urban Runoff Constitutes a Minor Component of the Flow and Loading to the Receiving Waters in Western Riverside County</u>*:*** *Based on our knowledge of the water resources in the permitted area of Riverside County, urban runoff is only a minor contributor to the water quality problems. Virtually all of the base flow in the Santa Ana River consists of discharges from Publicly Owned Treatment Works (POTWs) which are permitted by the Regional Board and little of the flow (or pollutants) are contributed by urban runoff. The quality of these flows are significantly impacted by discharges from dairies, which are also permitted by the Regional Board, and agricultural runoff, which is*

[1] *Report to Congress on the Phase II Storm Water Regulations* (U. S. EPA 1999) [AR, Vol. 14, Item 70]; *Environmental Impacts of Storm Water Discharges (U. S. EPA, 1992)*
[2] Clean Water Act Section 402(p); 40 CFR Parts 122, 123 and 124

exempt from regulation under NPDES (although not from Waste Discharge Requirements). Similarly, during storm conditions, urban runoff is a minor component of the flow and pollutant loading.

As illustrated in Appendix 1 of the Tentative Order, only one-sixth of the area of western Riverside County in the Santa Ana Region is considered "urbanized", and much of this area is open space or lightly developed. For example, these areas are not as intensely developed as the area of Orange County located in the Santa Ana Region.

Response: The MS4 permit regulates the discharge of storm water from the MS4 systems to waters of the U.S. As indicated in the comment above, the Regional Board already regulates most other point source discharges. The comment also indicates that under dry weather conditions, the urban runoff reaching waters of the U.S. is negligible. However, during a storm event, pollutants from the streets, industrial, commercial and construction sites are carried by storm water runoff into waters of the U.S. The control measures required under the proposed MS4 permit are necessary to control the discharge of pollutants in storm water runoff.

3. **Comment: The DAMP and Supporting Documents Outline an Effective and Appropriate Urban Runoff Quality Management Program for Western Riverside County**: *The DAMP has served as the urban runoff quality management program guidance document for the permitted area since 1993. The Regional Board approved the Drainage Area Management Plan (DAMP) on January 18, 1994. Supporting Documents including Supplement A, Enforcement Compliance Strategy and the Municipal Facilities Strategy have been developed to further enhance the programs described in the DAMP. A process to update the DAMP as described in the Report of Waste Discharge (ROWD) is currently underway. The purpose of the update is to incorporate numerous program improvements that have occurred since the initial DAMP was written. Neither the storm water program requirements specified in the 1987 Amendments to the Clean Water Act nor the Federal regulations issued in 1990 that implement these requirements have been amended.*

The permittees developed an Enforcement/Compliance Strategy (E/CS) to provide a framework to enforce local storm water and erosion control ordinances. The E/CS has been an efficient and cost-effective means to comply with the Federal NPDES regulation 40 CFR 122.26(d)(2)(i)(A) that requires permittees to demonstrate control:

"…through ordinance, permit, contract, order or similar means, the contribution of pollutants to the municipal storm sewer by storm water discharges associated with industrial activity and the quality of storm water discharged from site of industrial activity."

Under the E/CS framework, permittee staff verifies that an industrial or construction activity has obtained coverage (if required) under the State General Industrial and Construction NPDES storm water permits. The permittees are not responsible for enforcing the State permits mentioned above.

The Riverside County Environmental Health Department has incorporated a stormwater component to the existing inspections of approximately 3000 industrial facilities and 6600 retail food service activities throughout Riverside County. Through this inspection component, known as the Compliance/Assistance Program (C/AP), inspectors accomplish stormwater program compliance assistance by distributing educational materials, performing outreach and

documenting essential stormwater management activities using a one-page survey form. The stormwater C/AP is shown in Table 1 (end of this document). The E/CS and the C/AP meet the Federal requirements to control pollutants from the MS4, to identify priorities for inspections, and to hold industrial activities accountable for urban runoff from their respective sites. In addition, the Permittees have implemented programs to prohibit illicit connections and illicit discharges to the MS4 systems. Due to the low or absence of non-storm flows in most storm channels in western Riverside County, illicit or illegal discharges are readily identified and eliminated by the Permittees.

The current E/CS augmented by the C/AP and other existing oversight programs satisfy the Federal requirements for "Maximum Extent Practicable" in a cost-effective manner for western Riverside County. This is evidenced by the absence of identified water quality problems associated with commercial and industrial facilities and activities, including restaurants, in western Riverside County:

The existing and proposed 303(d) lists do not identify any receiving water impairments associated with these facilities or activities.

The Regional Board has not otherwise identified any problems associated with these facilities and activities in the permitted area, and

The Permittees have not identified any water quality problems associated with these facilities and activities in the permitted area.

Additionally, as shown in Table 2, various scheduled inspections are conducted by municipal agencies that constitute a credible program to monitor industrial urban runoff management and enforce local ordinances. Municipal code enforcement staff provides another layer of oversight for preventing and eliminating improper discharges and exacting compliance with local ordinances, shown in Table 3.

The Permittees believe that the increased inspection requirements beyond the current DAMP and E/CS program that are proposed in the Tentative Permit are not warranted in the absence of relevant technical information that specific water quality issues in western Riverside County would be addressed and alleviated by the increased municipal inspection program.

Response: The current DAMP, EC/S document, and the storm water compliance assistance/educational programs were all developed in compliance with the requirements specified in the first and second term MS4 permits. These plans and programs will continue to be an important part of the MS4 program. However, a review of the data submitted by the permittees in the most recent annual report indicates that water quality standards are not being met for all constituents on a consistent basis. When water quality standards are not being met, the permittees are required to implement more aggressive programs and policies consistent with the MEP standards. The proposed Order specifies some of these programs and policies. However, based on the input provided by the permittees, the inspection requirements specified in the first draft of the MS4 have been revised to more accurately reflect the various inspection programs currently being implemented by the permittees. Please note that the federal regulations[3] require the municipalities to inspect industrial facilities discharging into their systems.

[3] 40 CFR 122.26(d0(2)(iv)©

4. ***Comment:*** **Finding 6-***Finding 6 references certain studies conducted by USEPA, the states, flood control districts and other entities relating to major sources of urban storm water pollution nationwide, including industrial and construction sites. This finding is then used to impose heightened inspection requirements on the Permittees for industrial and construction sites. However, there is nothing in Finding 6 which links these studies to the unique problems of western Riverside County, particularly the problems associated with the high concentration of dairies in the area which are regulated under the Board's General Dairy Permit, the contributions of discharges from Publicly Owned Treatment Works (POTWs) which contribute to virtually all of the non-agricultural flow in the Santa Ana River, or the significant contribution of cultivated agriculture. Such a finding, if included, would not be supported by the observations of the Permittees or the information submitted by the Permittees in their Annual Reports submitted during the current MS4 Permit term. Further, there is no verification that the studies cited are applicable to western Riverside County or that municipal runoff is causing significant water quality problems sufficient to warrant increased compliance requirements. Therefore, this finding lacks evidentiary support and does not support the new development, special studies and heightened inspection requirements proposed in the Tentative Order.*

   Response: Finding 6 merely recognizes the three main sources of pollutants in urban storm water runoff. We have no information to indicate that the sources indicated here are not causing or contributing pollutants to urban runoff within the permitted area. The storm water monitoring data and other information provided by the permittees did not indicate a significant difference in the quality of urban runoff from western Riverside County. Please note that the compliance requirements specified in the MS4 permit are consistent with the MEP standard and are as per requirements in the federal statutes and regulations.

5. ***Comment:*** **Finding 12-***Finding 12 states that, while the Regional Board is the enforcing authority for the construction and industrial Statewide general NPDES permits issued by the State Water Resources Control Board, "in most cases, the industrial and construction sites discharge directly into storm drains and/or flood control facilities owned and operated by the Permittees". This finding is then used to impose heightened inspection requirements on the Permittees for industrial and construction sites. However, there is no evidentiary support for this finding and the finding is inconsistent with the monitoring requirements imposed on construction and industrial dischargers under the statewide permits. Further, such stormwater discharges do not constitute illegal discharges or illicit connections. Ultimately, the Regional Board is responsible for enforcement of the two Statewide permits and has no authority to attempt to delegate NPDES responsibilities for facility inspections or enforcement to the Permittees, who lack the expertise, staffing, funding and jurisdictional authority to enforce those permits.*

   Response: The federal regulations (40 CFR 122.26 (d)(2)(iv)) require the municipalities to monitor and control pollutants from industrial and construction sites. Some of the industrial and construction sites are also regulated under the State's General Permits. The requirements in the proposed order are not intended to delegate any of the State's responsibilities under these General Permits. The municipalities must ensure that the industrial and construction sites are in compliance with their local ordinances and regulations. They are not required to enforce the State's General Permits.

6. **Comment: Finding 13-***Finding 13 provides that "storm water discharges consist of surface runoff from drainage sub-areas with various, often mixed, land uses within all the hydrologic drainage areas that discharge into the water bodies of the U.S." This statement implies that surface runoff is generated by land uses. However, surface runoff is generated by rain or other forms of water release that are inherently not "controllable". This finding should be revised in light of this comment.*

   Response: This finding has been revised.

7. **Comment: Finding 15 -** *Finding 15 lists a number of pollutants that are not under the control of municipal government. The manufacture, sale and use of pesticides (DDT, Chlordane, Diazinon, Chlorpyrifos) are regulated by the USEPA (under the Federal Insecticide, Fungicide and Rodenticide Act) and California EPA – not the municipalities. Further, the municipalities do not use these pesticides in their activities or operations. Heavy metals (cadmium, chromium, copper, lead, zinc) and petroleum products (oil, grease, petroleum hydrocarbons, polycyclic aromatic hydrocarbons) are primarily associated with the operation of motor vehicles. Motor vehicle registration use, operation, and inspection is regulated under the State Department of Motor Vehicles and automotive design criteria is under the jurisdiction of the USEPA – not the municipalities. Any suggestion that these pollutants can be "controlled" by the municipalities once released to the environment is unrealistic and will not lead to water quality improvement. Finally, the permitted area does not discharge to any bays. Further, only infrequently do discharges from Prado Dam reach the ocean (although it is expected that the large artificial wetland created by Prado Dam provides significant regional treatment of POTW discharges, dairy wastes and urban runoff prior to release to the lower reaches of the Santa Ana River). This finding as presently written is misleading and should be revised to incorporate these clarifications.*

   Response: Please see revised language. We disagree with the statement that the municipalities are unable to do anything to control the discharge of these pollutants to storm water runoff. Most of the listed pollutants can be controlled through a variety of means. These include use restrictions, runoff controls, proper application through licensed applicators, proper storage, etc. Some of the pollutants associated with motor vehicle operations can be removed by frequent street sweeping. In short, there are programs and policies that the municipalities can implement to reduce the adverse impact of these pollutants on storm water quality.

8. **Comment: Finding 16-***Finding 16 states that "pathogens . . .. can impact water contact recreation, and non-contact water recreation." This is not an appropriate impact related to urban runoff in Riverside County. As stated in the 303(d) list, the identified source of pathogens causing impairments in western Riverside County is dairies. In addition, this finding fails to recognize that storm flows in the permitted area naturally exhibit high levels of suspended solids. For example, the Balboa Peninsula was created as a result of storm flows during the 19th century. The finding should be revised in light of these comments.*

   Response: Please note that several portions of the Santa Ana River within the permitted area are posted by the County Health indicating that the water is not suitable for body contact recreation due to bacteriological contamination. The sewage treatment plant discharges are all regulated and intensely monitored. On

March 23, 2000, pursuant to Water Code Section 13267, the Executive Officer issued an order to the municipalities that discharge storm water to upper Santa Ana River to investigate the sources of bacteriological contamination in the River. This study has not been completed and storm event and non-storm event urban runoff remains a suspect source for the bacteriological contamination in the River.

Also, please note that in many cases the exact cause of impairment was not fully identified prior to listing a waterbody on the 303(d) list and as indicated in the above paragraph, urban runoff remains a strong suspect for some of the impairments.

9. **Comment: Finding 17 -** *Finding 17 states that the "water quality assessment conducted by Regional Board staff has identified a number of beneficial use impairments due, in part, to agricultural and urban runoff." Although the Permittees agree with the portion of the finding related to agricultural runoff, the 303(d) inventory lists the only impairment identified as associated with an urban source in the Permitted Area is sedimentation/siltation in Lake Elsinore. However, it is unclear how even this impairment could be related to urban sources as there is no urban development between Canyon Lake and Lake Elsinore. To the extent the Regional Board has definitive evidence to support this finding as to urban runoff, the Permittees request that evidence should be provided in more detail. Otherwise, this finding should be revised to clearly reflect that the primary sources of water quality impairments in Riverside County are agricultural runoff, dairy wastes and POTW discharges, not urban runoff.*

   Response: As indicated in response to Comments 1 and 9, in many cases the exact cause of impairment was not fully identified prior to listing a waterbody on the 303(d) list. Therefore, the listed cause of impairment is not an all inclusive list. Finding 17 is a statement of facts and there is no need to revise it.

10. **Comment: Finding 19 -** *Finding 19 incorrectly states that "The urbanized area of Riverside County occupies an area of approximately 1,360 square miles." Although the total area of western Riverside County in the Santa Ana Region occupies an area of 1,360 square miles, the urbanized area covered by the MS4 Permit only occupies an area of approximately 270 square miles. In other words, the majority of the 1,360 square miles of western Riverside County in the Santa Ana Region is not urbanized. Further, the majority of the urbanized area is not intensely urbanized as is Los Angeles County or the area of Orange County included in the Santa Ana Region. This finding should be revised to include this information.*

    Response: Please see revised language.

11. **Comment: Finding 20 -** *Finding 20 states that "urban development generally increases impervious surfaces and storm water runoff volume and velocity; and decreases vegetated pervious surfaces available for infiltration of storm water". While this may be true of other areas, this is not always the case for western Riverside County. Areas that are naturally somewhat barren or have a naturally low infiltration soil type may be replaced with a percentage of turfed and landscaped areas that create a higher net absorption effect after development. While the inclusion of the word "generally" in this finding is a step in the right direction, the finding should be further revised to reflect the actual conditions in western Riverside County. These findings should reflect the climate, geography, vegetation and soil types found in western Riverside County. These conditions result in a naturally high rate of*

runoff and high sediment loads. To illustrate, the creation of the Balboa Peninsula by the Santa Ana River is attributed to three storm events in the 1800s.

Suggested Wording provided in a subsequent e-mail dated 5/15/02: Riverside County has residential, commercial and industrial urbanized developments. Depending on soils, relief, climate, precipitation volume and patterns, and other factors, urban development may increase surface areas and storm water runoff volume and velocity; and decreases in vegetated pervious surface available for infiltration of storm water. However, in semi-arid areas, urbanization may result in increases in vegetation and reduction of erosion. Scour, erosion (sheet, rill and/or gully), aggradation (raising of a streambed from sediment deposition), changes in fluvial geomorphology, hydrology, and changes in aquatic ecosystem may result in those instances where increases of volume and velocity occur. In semi-arid regions, development may result in the creation of aquatic ecosystems, and a net increase in absorption.

Response: Please see revised language.

12. **Comment: Finding 28 -** *Finding 28 is misleading as it suggests that the County and Cities actively promote development activities. This finding should be revised to reflect that, under the Constitution and State law, the County and Cities cannot prevent the lawful use of private property. In fact, the County and Cities review developments in accordance with State law and ensure that new development is orderly, safe, complies with CEQA and is consistent with the adopted general plan.*

    Response: Please see revised language.

13. **Comment: Finding 30 -** *Finding 30 provides that the "Permittees have established an Enforcement Compliance Strategy (ECS) for residential, industrial, and commercial facilities and construction sites." This statement is then used as a basis for justifying the Tentative Order's heightened commercial, industrial and construction inspection requirements. However, the finding inappropriately equates "enforcement" with "inspection". As specified in State Water Resources Control Board Order No. 99-08-DWQ State General Construction Permit (Item D.1.a.) and Board Order No. 97-03-DWQ State General Industrial Permit (Item F.1.a.), it is the Regional Board's responsibility to inspect those facilities subject to the State-wide NPDES permits. This Finding is not an appropriate basis for attempting to delegate that responsibility to the Permittees, who in most cases lack the technical expertise to perform the required inspections. Further, NPDES authority cannot be delegated [40 CFR 123.1(g)(1)]. However, the Permittees would like to note that the Regional Board identifies an appropriate frequency of inspection of industrial facilities and construction activities in the Tentative Order. The Permittees expect the Regional Board to conduct their inspections at these specified frequencies to effectively control the quality of stormwater discharges to our MS4 systems from the permitted facilities and activities.*

    Response: Please see revised language. The requirements in the proposed order are not intended to delegate any of the State's responsibilities under the State's General Permits to the permittees. The municipalities must ensure that the industrial and construction sites are in compliance with their local ordinances and regulations. Also, please refer to our response to Comment 3 above.

14. **Comment: Finding 41 (Formerly Finding 39) -** *Finding 39 provides that this "Order requires the Permittees to review their CEQA and General Plan processes to determine the need for revisions." However, the majority of the projects reviewed by the Permittees do not trigger the CEQA process, and for the projects that do, the existing CEQA checklist adequately addresses the issues. In addition, this finding illustrates that many aspects of the Tentative Order constitute impermissible intrusions into the Permittees land use powers and should be deleted. Further, this finding is misleading in inferring that stormwater pollution problems are the result of urban runoff when, in fact, urban runoff is a minor component of the volume and loading of pollutants to most of the receiving waters.*

    Response: The purpose of this provision is to ensure that the Permittees and developers address storm water impact issues early in the project-planning phase so that potential water quality impacts can be minimized.[4] Further, the requirement to review and revise CEQA processes and General Plan update was a condition in the second term permit that was not challenged by any of the permittees at the time. This requirement will not impede the Permittees' land use powers but require them to utilize those powers to achieve the water quality objectives through incorporation of water quality principles and smart growth planning.

    Again, please note that the permit regulates the discharge of pollutants in storm water runoff from the permitted areas. The permittees reports and monitoring data indicate that the storm water runoff from the permitted area does not always meet water quality objectives. Also, please see response to Comment 2.

15. **Comment: Finding 55 -** *Finding 55 states that in "accordance with California Water Code Section 13389, the issuance of waste discharge requirements for this discharge is exempt from those provisions of the California Environmental Quality Act contained in Chapter 3 . . . of the Public Resources Code." The Permittees disagree with this assertion of this exemption, as more fully explained below.*

    Response: Please note that the permit implements the federal Clean Water Act and the State Board has determined that the CEQA exemption contained in Section 13389 is applicable (see State Board Order No. WQ 2000-11).

16. **Comment: The Tentative Order Inappropriately Requires Principal Permittee to "Monitor" Permittee Compliance** *Item I.A.2.i. of the Tentative Order requires the District as Principal Permittee to "Monitor the implementation of the plans and programs required by this Order and determine their effectiveness in attaining water quality standards." The District has no authority to monitor the Permittees compliance with the Permit. As the permit issuing authority, the Regional Board has the legal authority and responsibility to monitor the Permittees compliance with the Order. However, the District will continue to compile and submit compliance information provided by the Permittees to the Regional Board.*

    Response: Please see revised language.

[4] Guidance Manual for the Preparation of Part 2 of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems, EPA Office of Water (1992), EPA 833-B-92-002.

17. **Comment: The Tentative Order Inappropriately Requires the Permittees to Assume the Regional Board's Enforcement Responsibilities** - *Item I.B.1.c. of the Tentative Order requires the Permittees to "adopt ordinances to set a penalty structure and to authorize them to impose and collect fines administratively". Such fines would result from violations of the Federal Water Pollution Control Act and regulations implementing this Act. The Permittees have adopted ordinances providing adequate legal authority necessary to establish and maintain adequate legal authority as required by the Federal Storm Water Regulations, 40CFR, Part 122.26(d)(2)(l)(A-F). The California Water Code §13160 expressly designates the State Board as the state water pollution control agency for all purposes stated in the Federal Water Pollution Control Act. Enforcement resulting from violations of the Federal Water Pollution Control Act and regulations implementing this Act are clearly the responsibility of the Regional Board. Delegation of this authority is not authorized under Federal law [40 CFR 123.1(g)(1)]. However, the Permittees will continue to notify the Regional Board of observed violations.*

    If the Regional Board assumed that the local jurisdictions have greater access and authority to implement these requirements, they are mistaken. For example, Riverside County does not currently require business licenses. For this reason, the County does not have the access afforded the Regional Board to enforce these Permits.

    Response: 40 CFR Section 122.26(d)(1)(ii) require the Permittees to have adequate legal authority to control discharges to the MS4 systems. If the existing authority is not adequate to meet the criteria provided in 40CFR122.26(d)(2)(i), then the Permittees are required to establish additional legal authority. The requirements included in the draft Order are consistent with these federal regulations. The Regional Board has clarified numerous times that the permittees are not being required to enforce the State Board's General Permits.

18. **Comment: The Tentative Order Should Contain a Cost/Benefit Analysis -** *The cornerstone of the National Pollutant Discharge Elimination System is the concept that the discharge of pollutants from municipal storm sewers must be controlled "to the maximum extent practicable". The MEP standard is set forth in Section 402(p) of the Clean Water Act, which requires that NPDES permits shall:*

    > *Require controls to reduce the discharge of pollutants **to the maximum extent practicable**, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.*

    (33 U.S.C. § 1342(p).)(Emphasis added.) Almost by definition, the MEP standard requires a weighing of the costs and the benefits of any program to enhance water quality. (See, e.g., 64 Fed. Reg. 68722, 68754 (Dec. 8, 1999); Clean Water Initiative, p. 119; Board Order WQ 2000-11, p. 10.)

    In addition, State law requires that the Regional Board consider the costs and the benefits associated with the development of Basin Plans. Pursuant to Water Code Section 13263(a), the Regional Board must consider all of the factors set forth in Water Code Section 13241 when issuing an MS4 permit. Water Code Section 13241 only authorizes the Regional Board to require water quality conditions "that could reasonably be achieved through the coordinated

control of all factors which affect water quality in the area." As part of its analysis, the Regional Board must take into account "economic considerations". (Water Code § 13241(d). Therefore, responsible public process calls for consideration of cost/benefits (supported by analysis and quantified costs) for permit requirements which implement Basin Plans. This is particularly critical in the Riverside County MS4 Tentative Permit where numerous new requirements appear that potentially pose significant expense to municipal budgets with no identified funding sources.

64 Fed Reg. 68722 & 68723 requires flexible interpretation of the Maximum Extent Practicable concept based on site-specific characteristics and "cost considerations as well as water quality effects …" Thus, the Regional Board is also advised in the Federal Regulations to consider costs as a factor in determining the reasonableness and practicality of permit requirements.

Under both Federal and State law, therefore, the Regional Board must consider the costs and the benefits of the Tentative Order. More fundamentally, the public demands consideration of economic factors in the establishment of all public policy, including public health and safety, education, homeland security and defense. There is nothing to justify not considering economic factors in establishing requirements for public management of stormwater quality. However, nothing in the Tentative Order or related documents indicates that such an analysis has taken place. The Permittees are very concerned about the costs associated with implementing the program set forth in the Tentative Order, and would like to see a weighing of these costs with the benefits to be derived from some of the components of the program, especially those components such as the construction and industrial inspections that are currently being conducted by other entities, including the Regional Board.

Response: This is the third term MS4 permit for the permittees. The first two term permits included similar provisions as required under the federal laws and regulations. The MS4 permits generally do not have numeric limits; the permittees are required to reduce the discharge of pollutants to the MEP. The permit specifies that increasingly more effective BMPs must be developed and implemented if water quality standards are being violated. Unlike most other point source NPDES permit requirements, a large amount of capital investment is not anticipated for structural treatment control systems to comply with the storm water MS4 permits.

While cost is a factor, the Regional Board is not required to perform a cost-benefit analysis in adopting the MS4 permits[5]. Section 13241 of the Water code applies to the development of water quality objectives (a basin planning process). This section of the Water Code includes a list of factors[6] that are to be considered by a regional board in establishing water quality objectives. The Regional Board established the water quality objectives in compliance with Section 13241 during the basin planning process. The proposed MS4 permit implements the water quality objectives in the Basin Plan. While regional boards are required to consider economic factors in the development of basin plans (W.C. 13241), regional boards are not specifically required to undertake formal cost/benefit analysis during the issuance of MS4 permits. Federal regulations do not compel reliance on any particular form of

[5] State Board Order No. WQ 2000-11 at p.20.
[6] California Water Code Section 13241.

economic analysis in the implementation of requirements based on the MEP performance standard. The citation from 64 Fed. Reg. 68722 & 68732 calls for flexible interpretation of MEP based on site-specific characteristics and "cost considerations as well as water quality effects…." In developing the first and the second drafts of the MS4 permit, Board staff met with the permittees several times and considered the information provided by the permittees in terms of cost of programs and policies required under the MS4 permit and the water quality benefit from these programs and policies. Thus, while the regional board is advised to consider costs as a factor in determining the reasonableness or practicability of requirements, there is no state or federal mandate for a more formal economic analysis involving the development of cost/benefit or cost-effectiveness relationships.

Also see the revisions based on additional information provided by the permittees.

19. **Comment: The Tentative Order's Requirements to Inspect Sanitary Sewer Systems are Inappropriate -** *Item V.F.5. of the Tentative Order requires the Permittees to inspect "existing devices designed to separate grease from wastewater (e.g., grease traps or interceptors) to ensure adequate capacity and proper maintenance." The Permittees object to this proposed requirement as these devices are an element of the sanitary sewer system and municipalities lack the technical expertise to conduct these inspections (with the exception of the Cities of Riverside and Corona, which operate pre-treatment programs). No evidence is provided to justify this requirement; however, if these inspections can be justified in the permitted area, the Permittees request that the Regional Board reopen the POTW permits to include this requirement or adopt a separate permit to require operators of sanitary sewer systems to perform these inspections.*

    Response: The item referred to in the above comment regarding inspection of grease traps or interceptors has been deleted. We agree that this is more appropriately addressed through the POTW pre-treatment program. The requirements on restaurant inspection have been moved to Section IX.C.3.

20. **Comment: The Tentative Order's Requirements for Reporting Spills and Developing Reporting Programs are in Contradiction to the California Water Code -** *Item VI.B. assigns responsibility for reporting of discharges that may endanger human health or the environment in contradiction to the requirements of the California Water Code. Sections 13193, 13271 and 13272 of the California Water Code requires that persons responsible for the spills are required to report to the Office of Emergency Services. This responsibility cannot be assigned to the Permittees in contradiction to State law except to the extent that the Permittees are responsible for the spills. In addition, Item VI.B. requires the Permittees to propose a reporting program for approval by the Executive officer. This requirement is also in contradiction to Section 13193 of the California Water Code which requires the State Board, when the legislature has appropriated sufficient funds in consultation with Regional Boards, the State Department of Health Services, and local agencies to prepare standardized reporting forms to be used by operators. This item should be deleted from the Tentative Order. Nevertheless, the Permittees will continue to report illegal and illicit discharges as observed to the Regional Board.*

    Response: Please note that Section 13193 of the California Water Code deals with sanitary sewer overflow reporting requirements, 13271 deals with hazardous waste

and sewage and 13272 deals with oil and petroleum products. The proposed language in the draft permit neither supersedes the requirements specified in Sections 13193, 13271 and 13272 nor contradicts these reporting requirements. Most permittees are currently notifying the Regional Board all illegal and illicit discharges and spills and leaks into their MS4 systems. The permit requirement to continue this practice is mostly to coordinate cleanup activities and to facilitate any enforcement actions.

21. **Comment: The Tentative Order's Inspection Components are Inappropriate -** *The Permittees are concerned about the portions of the Tentative Order that require the Permittees to regulate, inspect and control discharges from industrial, commercial and construction sites. This attempt to delegate responsibility from the State and Regional Board to local entities is inconsistent with the California Water Code and the Clean Water Act and constitutes an unfunded State mandate.*

Sections IX.A, IX.B and IX.C of the Tentative Order require the Permittees to develop inventories of construction, industrial and commercial sites and to inspect them on a regular basis. In addition, the Tentative Order proposes to require the Permittees to train staff to conduct these inspections. Requirements for inspection of industrial facilities are specified in 40 C.F.R. 122.26(d)(iv)(C). Only storm water discharges to MS4 systems from specified industrial facilities "and industrial facilities that the ***municipal permit applicant*** *determines are contributing a substantial pollutant loading to the municipal storm sewer system" (emphasis added) are required to be inspected – not the facilities themselves. The specified industrial facilities are those currently permitted under the State General Industrial Permit and establishment of a duplicative facility inspection program is not only not required by the regulations, but such a requirement would be unnecessary and burdensome of municipalities and the permitted industrial facilities. Further, in compliance with the existing MS4 Permit requirements, the Permittees effectively eliminate discharges from all facilities and activities that would "contribute substantial pollutant loading to the MS4 system". In other words, the Federal stormwater program provides for a complementary program whereby industrial and construction facilities and activities are permitted and regulated under NPDES and municipalities control illicit connections and illegal discharges to their MS4s under ordinance. Finally, there are no requirements in the Federal regulations for inspection of commercial facilities, including restaurants nor are there any requirements for establishment or maintenance of databases. Further, there is no justification for requiring the establishment of such programs in western Riverside County nor anticipated water quality benefits that would result.*

This raises a serious question regarding whether the Permittees have the expertise to conduct the required inspections without hiring new staff or incurring significant staff training costs. This concern holds true for other aspects of the Tentative Order as well. For example, Section V.F.5 of the Tentative Order requires the Permittees to develop a restaurant inspection program that includes inspections of oil and grease disposal. This is not a requirement of the Federal regulations and, with the exception of Riverside and Corona, is this a function that the Permittees are qualified to perform?

In addition, these requirements constitute a specific attempt to delegate obligations that the law imposes on the State and Regional Board to the Permittees. For example, facilities and activities regulated under the State's General Industrial Permit or the State General Construction Permit must be inspected by the Regional Board. Under the Tentative Order, however, the Regional Board attempts to effectively shift these inspection requirements to the

Permittees. This is inconsistent with the law and represents an unfunded State mandate in violation of Article XIII B, Section 6 of the California Constitution. Further, the Federal stormwater regulations clearly identify those industrial and construction activities that are potentially significant sources of stormwater pollutants for regulation. In not requiring construction activities disturbing areas less than one acre, industrial facilities not listed for regulation under the General Industrial Permit Program, and commercial activities, the Federal program recognizes that these are not significant sources of stormwater pollutants warranting special regulation or inspection. Further, nothing provided by the Regional Board or submitted by the Permittees in their Annual Reports or ROWD suggests that these are significant sources of pollutants impacting receiving waters in western Riverside County. The Permittees have implemented a Compliance Assistance Program (CAP) and have sufficient code compliance procedures in place that effectively and appropriately address these potential sources of stormwater pollutants. Therefore, the Permittees request that deletion of the inspection and associated database creation and maintenance requirements from the Tentative Order.

The Tentative Permit Sections IX.A.7 and IX.C. 10 require that

> *"The permittees need not inspect facilities already inspected by Regional Board staff if the inspection was conducted within the specified time period."*

Permittee inspections should not be conditioned on the Regional Board capability to meet its permit inspection duties. The Regional Board is charged with the responsibility and is funded to implement and enforce the General Permits for Industrial Activities, including Construction. This involves review of the Annual Reports and runoff monitoring information (for industrial sites), and conducting inspections as necessary to confirm permit compliance. The reports and monitoring data are sent to and are reviewed by Regional Board staff. Regional Board staff should conduct permit compliance inspections to properly carry out this responsibility. If additional resources are needed to more fully implement this program, the State Water Resources Control Board should forward a budget request to the legislature.

Additionally, an onsite presence and permit enforcement (when warranted) by the Regional Board would strengthen program creditability in the public view. This would also leverage the effectiveness of the overall stormwater program. Municipal inspections by permittees would be most efficiently focused on activities not already permitted under a fee based State program.

By the Regional Board assuming responsibility for enforcement of the General Permits and inspections of sites under the General Permit, businesses under those permits will also be spared paying two fees for both State and local inspectors conducting stormwater related inspections.

The Permittees would like to note that the Regional Board identifies an appropriate frequency of inspection of industrial facilities and construction activities in the Tentative Order. The Permittees expect the Regional Board to conduct their inspections of these facilities and activities at these specified frequencies to effectively control the quality of stormwater discharges to our MS4 systems from the permitted facilities and activities. To the extent that the Regional Board is not conducting inspections at these frequencies, it is not meeting its obligations under NPDES.

Response: The proposed MS4 permit does not purport to implement state law, but rather implements federal law as provided in the Clean Water Act and the municipal

storm water regulations promulgated thereunder. Therefore, the requirements specified in the permit do not constitute an unfunded State mandate. This argument has been made repeatedly and has been uniformly rejected by the State Board. The State Board held that the constitutional provisions cited in the comment above have no application to the adoption of NPDES permits. The SWRCB cited San Diego Unified Port District, Order No. 90-3 for the proposition that the constitutional mandate requirements do not apply to NPDES permits issued by Regional Board, in that the NPDES permit program is a federally-mandated program, rather than state-mandated. (Id, at page 14.) The Regional Board's issuance of the MS4 permit does not require that the State provide funding for its implementation.

The Regional Board has indicated at numerous occasions that it has no intention to delegate any of its responsibilities under the State's General Permits to the Permittees. 40 CFR Section 122.26(d)(1)(ii) requires the Permittees to have adequate legal authority to control discharges to the MS4 systems. If the existing authority is not adequate to meet the criteria provided in 40 CFR Section 122.26(d)(2)(i), then the Permittees are required to establish additional legal authority. Federal regulations also require the permittees to "Carry out all inspection, surveillance, and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to the municipal separate storm sewer"[7]. 40 CFR 122.26(d)(iv), the Permittees are required to develop a management program (municipal storm water management program, MSWMP) that addresses pollutant control measures for commercial, residential,[8] and industrial facilities.[9]

The requirements in the Order do not delegate any of the functions of the Regional Board to the permittees and they are consistent with the federal regulations. The Regional Board does not intend to reduce its inspection efforts at facilities under the General Permits. We expect that additional field presence provided by the permittees' inspection and enforcement of its ordinances would benefit water quality and encourage behavior modification. However, to avoid duplicative efforts, some flexibility is provided to the permittees in the inspection frequency for facilities already inspected by Regional Board staff.

The inspection frequencies have been revised based on discussions with the permittees.

22. **The Tentative Order's Time Implementation Provisions Should Be Revised** *As described in the letter provided by the Principal Permittee, the compliance schedules for program development and implementation proposed in the Tentative Order are arbitrary and unrealistic and do not recognize the practical and procedural logistics faced by municipalities.*

The requirements proposed in the Tentative Order can be categorized as Program Reviews, Programs and Work Products. The Tentative Order proposes the following schedule:

[7] 40CFR122.26(d)(2)(i)(F)
[8] 40 CFR 122.26(d)(iv)(A)
[9] 40 CFR 122.26(d)(iv)(C)

- *22 Program Reviews to be completed within the first 6 to 18 months*
- *36 Programs to be revised or developed within the first 12 to 18 months*
- *20 Work Products (databases, reports, BMP Manuals, survey) that need to be completed within the first 6 to 12 months*

Some of these development areas build on each other, requiring an extended amount of time to complete the task.

The Permittees propose a more orderly schedule that would provide for implementation of the proposed requirements in three phases:

- *Phase I – Existing Program reviews – months 0 to 18*
- *Phase II – Program Modification and Development – months 18 to 42*
- *Phase III – Reporting – months 36 to 42*

As described in the ROWD, the Permittees intend to review and revise the current programs in the revised DAMP. The phasing approach to overall program development will allow for a more fiscally responsible and complete program.

The following examples provided by the City of Corona illustrate the practical and procedural logistics that would be faced in developing and implementing the Inspection/Enforcement programs and in developing and adopting the ordinance proposed in the Tentative Order for enforcement and legal authority. These estimates were developed by staff experienced in these municipal procedures and are intended to illustrate the efforts and scheduling needs to meet these and other requirements proposed in the Tentative Order.

Inspection/Enforcement Program Development and Implementation

Step 1 – Inter-departmental meetings to review the MS4 Permit requirement and to identify existing and required resources. (Two months)

Step 2 – Multi-agency meetings to identify existing available inspection capabilities (i.e., County Health, etc.). (Three months)

Step 3 – Based on the findings of Steps 1 and 2, determine additional staffing needs and costs. (One month)

Step 4 – Present the options and associated costs to Council Committees. (Two months)

Step 5 – Finalize the recommended staffing/resources in consultation with the affected departments and agencies. (One month)

Step 6 – Present the inspection/enforcement strategy to the affected stakeholders. (Two months)

Step 7 – Report the outcome of the findings to the City Council Committees. (Two months)

At completion of Step 7 Ordinance development and adoption can be initiated (see below)

Step 8 - Prepare the budget modifications. (One month)

Step 9 - Present the budget and additional personnel needs to the Council. (Two months)

Step 10 - Develop the inspection forms and required training manuals.

Step 11 - Staff Training.

Ordinance Development and Adoption

Step 1 – It is important that such an ordinance be consistent Countywide as is the existing stormwater ordinance. Before an ordinance can be developed, an inspection and enforcement strategy identifying responsibilities for divisions/agencies and identifying an appropriate schedule for administrative penalties must be developed. (Four months)

Step 2 – Existing ordinances will need to be reviewed and a draft ordinance or revision to an existing ordinance will need to be drafted. This will need to be reviewed by County Counsel and the respective city attorneys. (Four months)

Step 3 – Once consensus is obtained between the Permittee attorneys, the draft ordinance must be presented to the Board of Supervisors and the respective City Council for review. (Two months)

Step 4 – The draft ordinance must then be presented to the full Board of Supervisors and City Councils. This procedural step requires a first and second reading and requires one month for ordinance adoption.

Step 5 – The ordinance is in effect 30 days following adoption.

Response: Many of the above stated requirements, including review of ordinances, are not new requirements. Consistent with 40 CFR 122.26(d)(2)(i), the previous versions of the permit required the permittees to establish adequate legal authority. However, some of the permittees may not have established adequate legal authority during the last twelve years. The third term permit clarifies some of the requirements for "adequate legal authority" and requires the permittees to fully comply with the federal regulations, which has been in effect since 1990. Federal NPDES regulation 40 CFR 122.26(d)(2)(i)(A) provides that each permittee must demonstrate that it can control "through ordinance, permit, contract, order or similar means, the contribution of pollutants to the municipal storm sewer by storm water discharges associated with industrial activity and the quality of storm water discharged from site of industrial activity." These ordinances must be applied at all industrial sites to ensure that pollutant discharges to the MS4 are reduced to the maximum extent practicable and permit requirements are met. 40 CFR 122.26(d)(2)(iv)(C)(1) requires that municipalities "identify priorities and procedures for inspections and establishing and implementing control measures…" for discharges from industrial sites that the municipality determines are contributing a substantial pollutant load to the MS4. Regarding enforcement at industrial sites, the US EPA further states, "The municipality, as a permittee, is responsible for compliance with its permit and must have authority to implement the conditions in its permit. To comply with its permit, a

municipality must have the authority to hold dischargers accountable for their contributions to separate storm sewers" (1992).

The requirements in the proposed MS4 permit are consistent with the federal regulations. The revisions in the second draft of the permit recognize the programs and policies the permittees have already implemented.

23. **Comment: The Tentative Order Should Include a Safe Harbor Provision -** *As the State Board has recognized, "strict compliance" with water quality standards are not generally appropriate. (Board Order WQ 2001-15). Rather than requiring "strict compliance," an iterative approach is used to obtain compliance over time. (Id.) Consistent with this iterative approach, Section III.E of the Tentative Order outlines a process by which BMPs are modified over time in an attempt to obtain full compliance with water quality objectives. However, the Tentative Order fails to include a "safe harbor" provision in this Section or in Section XV.A.11. This is inconsistent with the iterative BMP approach, and exposes the Permittees to unwarranted threats of third-party lawsuits, even when the Permittees are attempting to comply with the permit through the iterative BMP process. (See e.g., 33 U.S.C. §§ 1251 et seq.) To correct this problem, the Permittees request that the Regional Board include a "safe harbor" provision in the MS4 Permit similar to the provision recently approved by the State Board in Section F.3 of the Statewide General NPDES Permit for Discharges of Aquatic Pesticides to Waters of the United States, General Permit No. CAG990003. Such a provision is consistent with the iterative BMP approach called for by the State Board and the MEP standard of the Clean Water Act.*

Response: The comment suggests the addition of specific "Safe Harbor" provisions found in Section F.3 of the Statewide General NPDES Permit for Discharges of Aquatic Pesticides to Waters of the United States, General Permit No., CAG990003. The language in the General Permit referenced is similar to the language in the 1996 Riverside County MS4 (RC MS4) permit. It is also similar to the 1990 and 1996 Los Angeles MS4 permits that have been revised (renewed)[10] and the revised permit contains language similar to the language in the draft RC MS4 permit. State Board Order WQO No. 98-01 also contained similar language. However, WQO No. 98-01 has been subsequently amended by State Board Order NO. WQ 99-05. The language included in the RC MS4 permit is consistent with the renewed Los Angeles permit and the amended State Board order.

The Porter-Cologne Act requires waste discharge requirements to "implement relevant water quality control plans . . . ."[11] The water quality control plan identifies the beneficial uses to be protected and specifies the "water quality objectives reasonably required" to protect those uses, along with "the need to prevent nuisance . . . ."[12] The receiving water language included in the draft RC MS4 permit requires the permittees to comply with the water quality standards. These are not arbitrary standards; water quality standards include the water quality objectives and the beneficial uses specified in the Basin Plan. The discharges regulated by the

[10] LARWQCB Order NO. 01-182
[11] Water Code § 13263, subdivision (a)
[12] *Ibid.* and *id.*, § 13241.

Regional Board must meet water quality standards. The Discharge Prohibitions and the Receiving Water Limitations are necessary to meet the water quality standards.

The comment contends that by failing to include a "Safe Harbor" provision in the Receiving Water Limitations section in Part III or Section XV, Provisions, of the Permit, the Regional Board has failed to provide any assurances to Petitioners that once they have implemented the storm water management programs set forth in the Permit in a timely and complete manner, they will be deemed to be in compliance with the Receiving Water Limitations provisions. The comment alleges that this lack of protection may potentially expose the permittees to unwarranted third party suits.

The Receiving Water Limitations are consistent with the state and federal regulations and the precedential State Board orders[13]. An iterative process, which requires increasingly more effective BMPs, is needed for the permittees to come into full compliance with the Receiving Water Limitations. [14] The process is structured to allow dischargers the flexibility to try low-cost BMPs and to evaluate the effectiveness of those BMPs. The dischargers have the opportunity and flexibility to propose additional and/or different BMPs. Should the permittees fail to act on identifying exceedances of water quality standards and implementing appropriate BMPs, the Regional Board would direct the permittees to modify their BMPs. A violation occurs when the discharger fails to implement any of the BMPs or other revisions approved by the Regional Board. Timely implementation of BMPs and other control measures to reduce the discharge of pollutants consistent with this approach will satisfy the permit terms and this provides the "Safe Harbor" that the petitioners are seeking.

24. **Comment: The Regional Board Must Comply with CEQA -** *Finding 55 of the Tentative Order asserts that the Regional Board is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Water Code Section 13389. However, Water Code Section 13389 only applies to actions, which are required under the Clean Water Act. (See Water Code § 13372.) As Committee for a Progressive Gilroy v. State Water Resources Control Board (1987) 192 Cal.App.3d 847, 862 makes clear the exemption contained in Water Code section 13389 is a limited exemption and does not insulate discretionary acts of the Regional Board from the requirements of CEQA. The Tentative Order goes beyond the requirements of the Clean Water Act and imposes requirements, which are discretionary, not mandatory. Therefore, adoption of the Tentative Order should only occur after the appropriate CEQA review has been performed.*

Given the breadth of the Tentative Order and its potential impacts on the environment, there is good reason for the Regional Board to conduct the appropriate review under CEQA. For example, Section XV.A.6 of the Tentative Order recognizes that certain BMPs which are "implemented or required by the Permittees for urban runoff management may create a habitat for vectors (e.g., mosquitoes and rodents) if not properly designed or maintained". The environmental implications of this threat, along with the impacts the possible responses to this threat may also have on the environment, is just one example of the types of issues which must be studied by the Regional Board.

[13] State Board orders WQ 99-05 and WQ 2001-15
[14] Order R8-2002-0011, Section III, page 21

The need for the Regional Board to comply with CEQA is particularly true in light of the components of the Tentative Order, which require the Permittees to conduct heightened CEQA review of projects. For example, Sections VIII. 8.a-f require the Permittees to review their CEQA documents to ensure that stormwater-related issues are properly considered and appraised, and, if necessary, requires the revision of CEQA documents. This section goes on to mandate that certain specific items be considered for development projects. The Regional Board does not have the authority to revise the CEQA checklist or make it applicable to projects not otherwise subject to CEQA. In addition, it is the Regional Board and not the Permittees who should consider the environmental impacts created by the Tentative Order.

RESPONSE: The issuance of the MS4 permit in its entirety is exempt from the documentary requirements of CEQA pursuant to Water Code Section 13389. Contrary to the comment, the provisions of the Order do not go beyond the requirements of the Clean Water Act. Accordingly, as the State Board recently concluded, CEQA does not apply in the manner asserted. Please see SWRCB Order WQ 2000-11.

25. **Comment: The Tentative Order Confuses Storm Drains and POTWs** - *Sanitary sewers are part of publicly owned treatment works ("POTWs") (33 U.S.C. § 1292(2)(A)). The duty to monitor, inspect and respond to sanitary sewer overflows rests with the operator of the POTW, not with those Permittees who do not operate a POTW. Therefore, the Permittees request that the Regional Board delete the provisions of the Tentative Order which impose monitoring, inspection and enforcement requirements regarding the POTWs on the Permittees who do not operate those POTWs.*

Response: The Regional Board will consider issuing General Waste Discharge Requirements for the sewage collection agencies within San Bernardino and Riverside County to address sanitary system overflows similar to the General Waste Discharge Requirements for the Orange County area sewage collection agencies. However, for now the permittees are requested to coordinate responding to sewage spills with the local sewering agencies. A coordinated effort is needed to cleanup any sewage spill that enters an MS4 system. A POTW may lack the authority to access and cleanup an MS4 system. The permittees are not required to monitor and inspect systems owned and operated by the POTWs.

26. **Comment: The Tentative Order's Definition of Redevelopment is too Broad -** *Section VIII.B.1.A of the Tentative Order defines "significant re-development projects" as the "addition or creation of 5,000 or more square feet of impervious surface on an already developed site". This definition of "redevelopment" is inconsistent with the controlling EPA definition of the term. EPA intends the term "redevelopment":*

> *To refer to alterations of a property that change the "footprint" of a site or building in such a way that results in disturbance of equal to or greater than 1 acre of land. The term is not intended to include such activities as exterior remodeling, which would not be expected to cause adverse stormwater quality impacts and offer no new opportunity for stormwater controls.* (64 Fed. Reg. 68760, December 8, 1999.)

The Permittees request that the definition of "redevelopment" found in the Tentative Order be deleted and asks that the Regional Board use the controlling EPA definition.

Response: The current language in the permit is consistent with the Chief Counsel's December 26, 2000 letter to the Regional Board Executive Officers that explained State Board Order WQ 2000-11. Item 2 of this letter states, in part, "Redevelopment projects that are within one of these categories are included if the redevelopment adds or creates at least 5,000 square feet of impervious surface to the original developments".

27. **Comment: The Tentative Order Imposes Unfunded State Mandates -** *Article XIII B, Section 6 of the California Constitution requires the State to reimburse local governments for the costs associated with a new program or higher level of service mandated by the Legislature or any State agency. The one exception is for "mandates of . . . the Federal government which, without discretion, require an expenditure for additional services or which unavoidably make the providing of existing services more costly". (Cal. Const. art. XIII B, § 9(b); Sacramento v. California (1984) 50 Cal.3d 51.) However, this exception applies only where "the State had no 'true choice' in the manner of implementation." (Hayes v. Commission on State Mandates (1992) 11 Cal.App.4th 1564, 1593-94.)*

As discussed above, the Tentative Order goes beyond what is required by the Clean Water Act. Thus, to the extent the Regional Board chooses to exercise its discretion to impose such requirements on the Permittees, it must comply with the prohibition against unfunded mandates set forth in the California Constitution.

Response: The comment asserts that the draft permit imposes requirements beyond the federal mandate and therefore is in violation of the State Constitution prohibiting unfunded mandates. The comment references the Order's requirements for inspections of facilities subject to state General permits; response to SSOs; and definition of redevelopment as provisions not required under the Clean Water Act.

The comment cites *Hayes v. Commission on State Mandates*, 11 Cal. App 4th 1564, 1593 (1992) for the proposition that the prohibition on unfunded mandates applies, unless the State has **"no true choice"** in the manner of implementing the federal program. The analysis of this issue is incorrect and misleading. The comment writer omitted the most important sections of the implementing language and omitted key portions of the case cited. The California Constitution, Article XIII.B, Section 6 states:

> "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service…(Cal. Const. Art. XIIIB, Section 6). "

Government Code Sections 17500 through 17630 were enacted to implement Article XIIIB, Section 6.

This section was not intended to cover a PERMIT OR ORDER OR REQUIREMENTS THEREIN issued by a regulatory agency of state government imposing federal requirements upon parties prohibited from discharging pollutants into the waters of the State and the United States under both state and federal law. If comment writer's analysis were correct, every NPDES permittee could file a "Claim" for reimbursement to comply with regulatory requirements, claiming that they require a "new program" or an "increased level of service." The Constitution addresses reimbursement for additional "services" mandated by the State upon local agencies, not regulatory requirements imposed upon all permittees, including cities and the counties. The intent of the constitutional section was not to require reimbursement for expenses incurred by local agencies complying with laws that apply to all state residents and entities. (See *City of Sacramento v. State of California*, 50 Cal.3d. 51 (1990) citing *County of Los Angeles v. State of California, 43 Cal.3d.46.*

Further, all provisions contained in the MS4 permit implement applicable federal statutes and regulations to protect quality of waters of the United States. These provisions are consistent with the federal regulations and USEPA's guidance. The State Board found that the Los Angeles SUSMP provisions, including the numeric sizing criteria, are consistent with the MEP standards specified in the federal laws and regulations.[15],[16], [17] The inspection requirements, and the response to SSOs are as per federal regulations.[18] The requirements for development and redevelopment controls were also addressed by the State Board in its WQ Order No. 2000-11.

The State Board found that the constitutional provisions regarding state mandates do not apply to federally mandated NPDES permits.[19] The case cited by the Commenter is not applicable to this situation.[20] The draft permit implements the Clean Water Act and its implementing regulations and therefore the "unfunded mandate" provision does not apply to this NPDES permit.

28. **Comment: The Tentative Order Infringes on the Permittee's Land Use Authority**
In California, land use planning and zoning lies in the hands of local governments, and local governments have wide discretion to both determine the content of their land use plans and to choose how to implement those plans. (Yost v. Thomas (1984) 36 Cal.3d 561, 565.) In the Clean Water Act, Congress recognized that land use was a local matter, stating that: It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States . . . to plan the development and use (including restoration, preservation, and enhancement) of land and water resources . . .. (33 U.S.C. § 1251(b))

[15] SWRCB, 2000 Memorandum on State Water Board Order WQ 2000-11, SUSMP page 1
[16] 40 CFR Section 122.26(d)(2)(iv)(B)(7)
[17] 40 C.F.R. Section 122.26(d)(2)(iv)(B)(4)
[18] See 40 CFR 122.26(d)(2)(i)(F)
[19] SWRCB, 1990 Order No. 90-3
[20] Hayes v. Commission on State Mandates, (1992) 11 Cal.App.4th 1564 addressed the exception set forth in Gov. Code Section 17556©. This case involved a decade long battle over claims by two county superintendents of schools for reimbursement for mandated special education programs. The court stated that the "costs mandated by the federal government are exempt from an agency's taxing and spending limits," and therefore exempt from reimbursement

Despite this clear Federal and State policy, the Tentative Order infringes upon the power of local governments to determine the content of their land use plans and to choose how to implement those plans. For example, the Tentative Order infringes upon the Permittees' rights with respect to their general plans, their development project approval processes, and their environmental review processes. By infringing on the power of local governments to control local land use decisions, the Tentative Order goes beyond the Regional Board's authority.

Response: Commenter alleges that the draft Permit violates provisions of the CWA and California law as it infringes on local government's land use powers and authority. Commenter cites the draft permit requirements to review general plans, development project approval processes, and their environmental review processes.

The permittees have land use powers and authority. Utilizing their land use authority, the permittees authorize urban development that adds pollutants to urban runoff. During each phase of urban development, the permittees must consider the impact of the development on the environment. By considering appropriate pollutant controls and incorporating those control measures during the planning stages of the project, it is possible to control pollutants in urban runoff in a cost-effective manner. The draft permit lists a number of items that could be considered by the permittees during the planning stages of a project for a cost effective pollutant control program[21]. If these factors are not considered at the planning stages and if the site becomes a source of pollutants in urban runoff, after-the-fact control measures may not be cost effective. However, a consideration of these factors during the planning process in no way infringes upon the local governments' land use powers and authority. The permit requires the permittees to consider watershed protection principles and policies during the planning stages of a project and to incorporate appropriate principles and policies into their General Plan or related documents. This requirement does not reduce the powers and authorities of the local government in land use planning.

The commenter also indicated that neither the CWA nor EPA regulations intended to impose any restrictions on local land use authority. We have no disagreement with this argument. However, the commenter fails to recognize the fact that the EPA did envision the municipal storm water program to address pollutants during all stages of urban development, including the planning process. EPA regulations require that MS4 Permittees implement planning procedures including a comprehensive master plan to control after construction is completed, the discharge of storm water from municipal separate storm sewer systems which receive discharges from development and significant redevelopment.[22]

EPA Guidelines further note that MS4 Permittees may accomplish this requirement by

> Incorporation of land use goals and objectives into a plan document or map plan. Comprehensive or master plans are often non-binding. They provide

[21] Order NO. R8-2002-0011, Part VIII.A.8 a to f and A.9 a to g.
[22] 55 Federal Register 47990, 48054

support and direction to local officials that have the authority to make land use decisions.[23]

Furthermore, similar requirements for General Plan update were included in the second-term (1996) MS4 permit for the permittees.[24] None of the permittees challenged this provision in 1996.

Finally, the December 26, 2000 memo from the Chief Counsel of the State Board indicated that the SUSMP provisions must be considered as MEP, should be a part of all MS4 permits, and the State Board Order (WQ 2000-11) should be considered as precedential.

The requirements in question do not infringe on local land use authority, are consistent with the federal regulations and guidelines, and with the precedential orders adopted by the State Board, and are in compliance with the directives from the Chief Counsel.

29. **Comment: Section IX. Municipal Inspection Program -** *The Tentative Order proposes to require the Permittees to develop several databases to identify information about construction projects, industrial and commercial facilities. The Permittees request clarification on the databases as follows:*

- *Due to the major cost of developing these databases, the Permittees request additional information on how this information will be used.*

- *The Construction database is to include "an inventory of construction sites within its jurisdiction for which building or grading permits are issued and activities at the site include: soil movement; uncovered storage of materials or waste, such as dirt, sand or fertilizer; or exterior mixing of cementaceous products, such as concrete, mortar, or stucco". This requirement is overly broad as each Permittee issues many permits that result in soil movement and can range from the mass grading of a site to the installation of a pole sign. Although this extensive requirement would be expensive to develop and maintain, it would not be useful to the Permittees in managing construction-related stormwater quality. As such, it would not result in a water quality benefit. Table 4 below summarizes the building and grading permits issued during the 2001 calendar year that meet the requirements stated above.*

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[23] Guidance for the Preparation of Part 2 of the NPDES Permit Applications for Discharges from Municipal Separate Sewer Systems, EPA Office of Water (1992), EPA 833-B-92-002.
[24] Regional Board Order No. 96-30, Section V.22, page 21 of 29

Building & Grading Permit Summary, Calendar Year 2001 *Table 4*

Agency	*Sewer Connections*	*Swimming Pools*	*Building Cost Range*			*Public Works*	*Grading*
			>$2M	*$100K to $2M*	*<$100K*		
Beaumont							
Calimesa	*5*			*9*	*116*	*20*	*2*
Canyon Lake							
Corona	*7*	*483*	*9*	*447*	*3950*	*227*	*95*
Hemet						*151*	*16*
Lake Elsinore		*47*		*307*	*716*	*120*	*100*
Moreno Valley		*110*		*315*	*1025*	*400*	*73*
Norco	*238*	*75*	*1*	*153*	*41*	*1102*	*19*
Perris							
Riverside County		*1010*	*7*	*29*	*6423*		*900*
Riverside City	*179*	*325*	*8*	*1369*	*2146*	*237*	*170*
San Jacinto							
Murrieta							
Total	***429***	***2021***	***25***	***2629***	***14417***	***2130***	***1380***

The categories noted above are typical project types for which building or grading permits are issued. The Sewer category is for connections to the sanitary sewer. The Building greater than $2,000,000 category represents large building projects such as warehouse projects, industrial buildings or office buildings. The Building $100,000 to $2,000,000 category represents moderate sized projects including single-family homes or small office buildings and industrial plants. The Building less than $100,000 category represents small projects including pole signs, patios, garages, fences and walls, and constitutes the vast majority of projects permitted by the Permittees. Public Works Permits are issued for a wide variety of activities within the public street or on public property ranging from the installation of a new driveway approach to the installation of a new sewer or storm drain line. The Grading category covers all projects from stockpiles of 50 cubic yards of soil to mass grading for a new housing tract.

The USEPA determined that the minimum construction project worthy of regulation under Phase I are those that disturb five acres or more of land. This limit will drop on March 9, 2003 to one-acre when the Phase II NPDES program becomes effective. These projects should be adequately addressed in the database maintained by the State Water Resources Control Board. The Permittees object to the proposed requirements to establish a more extensive database without a clear justification of a need and demonstration of an expected benefit commensurate with the resources needed to implement this requirement.

The Tentative Order proposes that the "inspectors responsible for ensuring compliance at construction sites shall be trained in and have an understanding of Federal, State and local water quality laws and regulations as they apply to construction and grading activities; the potential effects of construction and urbanization on water quality; and implementation and

maintenance of erosion control BMP's and sediment control BMP's and the applicable use of both". Clarification of this training standard and the schedule for obtaining such training is needed, as construction inspectors currently do not have the specified qualifications.

Response: The annual reports from prior years indicate that most of the Permittees already have an inventory of construction sites. The requirement for a database would enhance information sharing and provide a comprehensive view of the potential dischargers to the MS4s. We expect that having such a database which identifies the universe of dischargers within its jurisdiction would be useful in the permittees' implementation and documentation of their storm water program. Some changes have been made to the deadline to provide adequate time for all Permittees to comply with this requirement.

With respect to lack of resources to implement the additional inspection provisions, we encourage the Permittees to look into the cost saving and efficiencies in using existing inspection programs. The permit offers the cities the ability to prioritize these sites based on threat to water quality, and therefore utilize limited resources in a way that will result in maximum benefit. The Enforcement/Compliance Strategy (E/CS) has already identified the existing inspection programs. The revisions to the inspection program recognize the Permittees' desire to utilize and build upon the existing program.

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Enforcement/Compliance Strategy (E/CS) ***Table 1***

Compliance/Assistance Program (C/AP)
Countywide Industrial/Commercial Inspections with NPDES Stormwater Component

- Initiated in 1999
- Funded by NPDES Benefit Assessment
- 1999-2001 Accomplished outreach
- 2002 Began utilizing survey form to document facility stormwater compliance status
- Conducts inspections under CUPA responsibilities

Agency	*Department*	*Inspections (numbers approximate)*	*Facilities inspected (typical)*
Riverside County Environmental Health Department	Hazardous Materials Department	▪ 3000 facilities ▪ Visits sites one time every two years	Hazardous Waste Generators ▪ dry cleaners ▪ auto repair & body shops ▪ manufacturing facilities
Riverside County Environmental Health Department	Environmental Services Division Food Services Dept	▪ 3000 facilities ▪ Visits sites 3x annually/stormwater component once per year	Retail food facilities ▪ Restaurants ▪ Gas stations

Enforcement/Compliance Strategy (E/CS) ***Table 2***

Existing Local Industrial/Commercial Inspections
Non-NPDES Municipal Inspections with Urban Runoff related components

- Funded by respective program source (Non-NPDES)
- Accomplished outreach, confirmation of General Permit coverage, report IC/ID incidents

Agency	*Department*	*Inspections*	*Facilities inspected (typical examples)*
County of Riverside/California Department of Forestry	Fire	To be determined	General industrial activities
City of Riverside	Wastewater pre-treatment (source control)	3000	Food processing Car washes Dry cleaners Pool, lake, fountain cleaning Restaurants Floor cleaning Auto repair, paint, or maintenance Carpet, drape & furniture cleaning Painting & coating
	Fire	5800 (fire code) 825 (CUPA)	Auto repair / gas stations Dry cleaners Education facilities Medical facilities Printing / publishing

Enforcement/Compliance Strategy (E/CS) ***Table 2 (Cont.)***

Existing Local Industrial/Commercial Inspections Non-NPDES Municipal Inspections with Urban Runoff related components			
▪ Funded by respective program source (Non-NPDES) ▪ Accomplished outreach, confirmation of General Permit coverage, report IC/ID incidents			
Agency	*Department*	*Inspections*	*Facilities inspected (typical examples)*
City of Corona	Wastewater pre-treatment (source control)	2600	Electroplating & metal finishing Food processing Dry cleaners Plastics Fabricated metals Pharmaceutical Pulp & paper Steam electric Printing/publishing Silk screen
	Fire	2700 (fire code) 600 (CUPA)	
City of Hemet	Fire	2000 Facilities inspected once every 3 years	
City of Norco	Fire	600 non-household businesses	Also inspects schools, residential care & board facilities

Enforcement/Compliance Strategy (E/CS)

Existing Local Industrial/Commercial Inspections ***Table 3***

Agency	*Department*	*Ordinance violations handled by municipal crews (typical)*
County of Riverside	Code Enforcement	▪ Citizens dumping oil, paint, anti-freeze into storm drain ▪ Washing construction equipment into city streets ▪ Improper disposal of products used on residential properties, such as unused herbicides ▪ Inadvertent gasoline overflow (spill) during delivery to filling station
City of Beaumont	Code Enforcement	
City of Canyon Lake	Code Enforcement	
City of Corona	Code Enforcement	
City of Lake Elsinore	Code Enforcement	
City of Hemet	Code Enforcement	
	Public Works/Streets	
	Refuse Division	
City of Moreno Valley	Code Enforcement	
City of Perris	Code Enforcement	
City of San Jacinto	Code Enforcement	
City of Riverside	Code Enforcement	

B. RESPONSE TO Riverside County Board of Supervisors (May 10, 2002)

30 **Comment: Schedule of Permit Approval -** *In a Regional Board letter dated April 19, 2002, it was indicated that the decision to hold a second workshop and the public hearing schedule would be based on comments received prior to and at the May 31, 2002 Regional Board workshop. Be advised that this Board strongly recommends a* ***second workshop be held in Riverside County****. The draft permit has far-reaching implications for the businesses and residents of Riverside County. The NPDES effort is based on the public's understanding of these requirements. This process begins with facilitating public discussion of the permit in the local area. Consistency with other permits (as referenced in the Regional Board letter) should not be the reason to restrict a full discussion of the permit for Riverside County, which has its own unique set of adopted programs and water quality issues.*

Response: The comments received to date have been from three groups. Regional Board staff have been meeting with the Permittees and have offered to meet with the other groups. At the permittees' request, the Board at the September 6th Board meeting in the City of Loma Linda conducted a second public workshop. Written comments on the draft permit will be received until September 20, 2002. There will also be an additional opportunity for the public to voice their comments to the Board at the October 25th public hearing in the City of Corona.

31 **Comment: Proposed Waste Discharge Requirements -** *The Riverside County Flood Control and Water Conservation District (District) and County Executive Office (CEO), in correspondence dated May 10, 2002 and April 8, 2002 respectively, have raised concerns regarding the Findings of Fact and proposed Waste Discharge Requirements (WDR). Many of the proposed requirements prescribe new programs to be implemented by the County, District, and cities (Permittees). With respect to Riverside County's water quality conditions, Lake Elsinore is the only water body identified by the Regional Board as impaired by urban runoff. The County and District are working actively with Regional Board staff in applying the San Jacinto Watershed Storm Water Permit and developing a TMDL for Lake Elsinore. This Board requests a program-specific response regarding the water quality benefit of each program proposed in the Tentative Order. For example, the purpose and expected water quality improvement that is expected to result for each of the proposed inspection and database implementation programs should be specified. The cost of implementing the programs proposed in this Tentative Order should not be underestimated: the early County estimate is $5 to $8 million dollars, annually, to implement the proposed inspection programs in the unincorporated area.*

Response: Regional Board staff have met several times with the Permittees and have modified many of the findings to reflect Riverside County characteristics as well as clarified the requirements in the Order. Please refer to the revised draft permit.

With respect to the request for a cost benefit analysis of each program requirement, please note that the order incorporates the requirements specified in the Clean Water Act and its implementing regulations. Consistent with the Clean Water Act, the Permit requires compliance with water quality standards specified in the Basin Plan. Cost benefit analysis is performed during the Basin Plan development, and not during its

implementation through waste discharge requirements. This is the third term MS4 permit for the permittees. The first two term permits included similar provisions as required under the federal laws and regulations. The MS4 permits generally do not have numeric limits; the permittees are required to reduce the discharge of pollutants to the MEP. The order specifies that increasingly more effective BMPs must be developed and implemented if water quality standards, as specified in the Basin Plan are being violated. All MS4 permittees are expected to meet certain MEP standards and the State Board has stated the following in its WQ Order No. 2000-11:

> [I]f a permittee employs all applicable BMPs, except those where it can show that they are not technically feasible in the locality, or whose cost would exceed any benefit to be derived, it would have met the [MEP] standard. MEP requires permittees to choose effective BMPs, and to reject applicable BMPs only where other effective BMPs will serve the same purpose, the BMPs would not be technically feasible, or the cost would be prohibitive.[1]

An iterative process is structured to allow permittees the flexibility to try low-cost BMPs and to evaluate the effectiveness of those BMPs. The permittees have the opportunity and flexibility to propose additional and/or different BMPs. Also please refer our response to Comment 18.

We are unable to provide any comments on the estimated cost for implementing the inspection program in the unincorporated area as no supporting documentation was provided by the Permittees.

32 ***Comment: Compliance Schedule -*** *The Tentative Order requires the Permittees to individually and collectively, conduct 22 program reviews and revise and develop 36 programs within 18 months, ignoring any funding or manpower limitations. Even with the existing permit, the Environmental Health Department has indicated that they are understaffed by 30% because of the difficulty in recruiting and retaining staff in this field. The compliance schedules do not recognize the logistical, statutory, procedural and budgetary realities faced by the County in attempting to comply with these requirements. These schedules need to be revised in consultation with all the Permittees to provide for attainable compliance.*

Response: Please refer to the revised schedule. As mentioned in our response to Comment 31, many of the provisions are similar to those required in the first and second term permits. New provisions such as the SUSMP type requirements in this permit have provided for a phase-in period to allow the Permittees to develop a regional approach or to modify their existing procedures to implement other control measures required by the permit. In the interim, the Permittees are required to continue implementing their current new development program (Supplement A and Attachment) that also require implementation of structural and non-structural controls.

[1] State Board Order No. WQ 2000-11 at page 20.

33 **Comment: Safe Harbor -** *As currently written, the unrealistic provisions of the proposed Tentative Order will necessarily place the County in a position of non-compliance regardless of any actions the County takes to achieve compliance. The non-compliance risk is increased by the number of vague and ambiguous terms used in the permit, i.e. 5 million "impressions" are to be made annually in the public education program. Also, it should be recognized that the County's unincorporated area is within three Regional Board areas, each with its own requirements. It is imperative that the County's ongoing efforts be protected through a "safe harbor" provision, if it is to have any reasonable chance to focus on implementing the permit rather than defending itself from third party suits.*

Response: As a result of various meetings with the permittees, additional definitions of terms and clarifying language have been provided. Please refer to the revised draft.

With regard to the addition of a "safe harbor" provision, please refer to our response to Comment 23.

C. Response to "Handouts" at the May 31, 2002 Workshop

34. **Comment: Conclusions - Field Investigation of the RCFC&WCD Storm Drain Outlets into the Santa Ana River**

Nine of the twelve RCFC outfalls to the Santa Ana River investigated had insignificant non-storm flows and significant down stream infiltration zones before their confluence with the Santa Ana River main stem. Three of the twelve outfalls did have non-storm flows to the Santa Ana River main stem flows, but their contributions are not significant (1 to 2% of total flow).

Response: Please note that the permit regulates storm water runoff from the permitted area. The permittees are required to eliminate non-storm water discharges except for those authorized under Section II.C. of the proposed MS4 permit. From the above comment, it appears that the permittees have eliminated most of the non-storm water discharges. However, during a storm event, the permitted area drains into the Santa Ana River. The pollutant loads from non-storm water and storm water runoffs have not been fully determined.

The DAMP (at page 2-4, 1993) indicates that lead, copper, manganese, zinc, BOD, hardness, and nitrates for some of the dry weather samples analyzed exceeded the water quality objectives in samples collected prior to the DAMP. The August 30, 2000, Santa Ana Report of Waste Discharge (ROWD) indicated that in order to assess long-term trends and BMP effectiveness more data points were needed, with at least 5 samples (of similar types) obtained for many years. A July 8, 2002, draft submittal of the "Preliminary Evaluation of Selected Water Quality Monitoring Stations", prepared by the Permittees, indicates that the present monitoring and reporting program data set is insufficient and inconclusive. "…The data associated with the stations identified by Regional Board staff [for the subject study] is inconclusive in identifying potential impacts on receiving water… the effect of Urban Runoff must be segregated from the effects of pollutants contributed by sources other than Urban Runoff. The Monitoring

Program … must be restructured." (Section 3.6.1, page 3-13). The report further notes "…The Monitoring Program currently being implemented was developed by the Permittees in 1994 and reviewed by the Regional Board and has not been revised subsequently. It is clear that the Permittees and the Regional Board have increased their understanding of the data necessary for a monitoring program that adequately supports decision-making to efficiently and effectively improve water quality."(Section 4.1, page 4-1). As such, we anticipate that the Permittees will quickly evaluate the current monitoring program and sampling locations and propose a new integrated monitoring program. In addition, flow measurements must be added to the Monitoring and Reporting Program to determine pollutant loading from Urban Runoff to Receiving Waters.

D. RESPONSE TO CITY OF LAKE ELSINORE (MAY 10, 2002)

35. **Comments & Responses***:* The comments are similar to those submitted by the RCFC&WCD. Please refer to our response to Comments 1-29 submitted by the RCFC&WCD (May 10, 2002)

E. RESPONSE TO CITY OF PERRIS (MAY 10, 2002)

36. **Comments & Responses:** The comments are similar those submitted by the RCFC&WCD. Please refer to our response to Comments 1-29 submitted by the RCFC&WCD (May 10, 2002)

F. RESPONSE TO NATURAL RESOURCES DEFENSE COUNCIL (MAY 9, 2002)

37. **Comment:** *As an initial matter, it appears that the Draft Permit is very similar to earlier drafts of the Waste Discharge Requirements for the San Bernardino County Department of Public Works, the County of San Bernardino, and the Incorporated Cities of San Bernardino County Within the Santa Ana Region, Areawide Urban Storm Water Runoff, Order No. R8-2002-0012 ("San Bernardino County permit), which was adopted by the Board on April 26, 2002 and the Waste Discharge Requirements of the County of Orange, the Orange County Flood Control District and the Incorporated Cities Within the San Ana Region, Areawide Urban Storm Water Runoff, Order No R8-2002-0010 ("Orange County permit"), which was adopted by the Board on January 18, 2002. Thus, the Draft Permit appears to suffer from many of the same problems found in the earlier drafts of the San Bernardino County and Orange County permits. As a result, many of our comments are identical to those made via letters dated February 8, 2002, February 25, 2002, and April 8, 2002 with regard to the San Bernardino Permit and July 20, 2001, October 18, 2001, November 14, 2001, and December 17, 2001 with regard to the Orange County Permit. We appreciate the Santa Ana Regional Water Quality Control Board's ("Regional Board" or "Board") recent efforts regarding storm water pollution, including its effort to make some important changes in the final versions of the San Bernardino County and Orange County permits. However, based on our review of all of the regional municipal storm water permits during this past permitting cycle, this Draft Permit, including the portions of the Report of Waste Discharge ("ROWD") and associated Drainage Area Management Plan ("DAMP") that we have been able to obtain, is one of the weakest permits in the region in terms of controlling polluted runoff - the number one source of water pollution in southern California. Over a decade ago, the United States Environmental Protection Agency observed*

that storm water pollution and dry weather urban runoff are "increasingly important contributors of use impairment as discharges of industrial process wastewaters and municipal sewage plants come under increased control . . .." 55 Fed. Reg. 47990, § I (Nov. 11, 1990). Storm water harms surface waters in part because it contains most, if not all, of the pollutants of greatest concern.

Response: At the request of the Regional Board, a comparison matrix was prepared to compare the major components of three recent MS4 permits from Southern California Regions (San Diego Region's south Orange County permit, Santa Ana Region's north Orange County permit and the Los Angeles Region's Los Angeles permit). The matrix only compared the major components; it was not a word-by-word comparison of the permits. The north Orange County permit is similar to the Riverside County draft permit. Therefore, this comparison matrix is applicable to the Riverside County draft permit. This matrix indicates that the core requirements of the three permits are very similar. Implementation of the NPDES municipal storm water requirements allows for differences from location to location. Although the storm water issues are similar across the board, the magnitude of the existing problem/sources in Riverside County is different than LA. Hence, this permit specifies detailed performance standards in critical areas but it also provides flexibility to the Permittees to propose programs and policies that may be regional or site-specific. The proposed order also recognizes the programs and policies the permittees have developed and implemented as required by the earlier versions of the Riverside County MS4 permit.

38. **Compliance Assurance:** *As discussed in our comment letters on the draft Orange County and San Bernardino Permits, the Regional Board's enforcement and audit program for municipal entities has been virtually non-existent during the last ten years due to inadequate funding. This violates the terms the State of California's agreement with the United States Environmental Protection Agency allowing the Regional Board to implement this NPDES permit program—and is also a violation of the Clean Water Act. See Storm Water Program Five-Year Work Plan at V-9 (State of California, 1994). While recent budget augmentations have improved Regional Board capacity in this regard, it is unclear whether the Regional Board can meet its own minimum inspection and audit requirements: a minimum of one annual inspection and audit of each municipal entity during each year of the term of the new Permit. Does the Board intend to meet these requirements and, if so, how will it do so?*

Response: The five-year workplan established a framework and setup goals and objectives for the State's storm water program. The goals and objectives were predicated upon full funding to implement this program. One of the program goals was to evaluate the municipal program annually through offsite and onsite audits. During the last twelve, even with the limited resources allocated for the storm water program, we conducted both offsite and onsite audits and have taken a number of enforcement actions against municipalities for violations of the MS4 permits. A recent audit of the Regional Board's NPDES program by US EPA (p. 16-17) states, "RB8 conducts annual compliance inspections of their MS4 Permittees" and on page 25 it states, "RB8 has developed a protocol for in-depth audits for the MS4 Permittees". Therefore, NRDC's assumptions are not based on facts. Last year, the storm water program budget has been augmented. A review of our files will indicate that

frequency of our municipal program audits and our enforcement activities have significantly increased with the budget augmentation. The Board intends to optimize use of its resources to meet or exceed its work plan commitments.

39. **Comment:** *The last sentence of Finding 18 should be deleted and the following language should be added to the Draft Permit: The Permittees shall revise their DAMP, at the direction of the Regional Board Executive Officer, to incorporate program implementation amendments so as to comply with regional, watershed specific requirements, and/or waste load allocations developed and approved pursuant to the process for the designation and implementation of Total Maximum Daily Loads (TMDLs) for impaired water bodies. In addition, the Fact Sheet should be revised accordingly.*

    Response: Please see revised language, requested changes made.

40. **Comment: Pollution in Storm Water:** *Local studies in Southern California have established that urban runoff has very serious impacts in rivers, streams, and the ocean. The L. A. County Municipal Storm Water Permit provides multiple references to studies and data regarding storm water impacts, and this information should be covered in the draft Permit, as well. We suggest revising the findings of the Permit to more completely reflect the known impacts of polluted runoff on receiving waters.*

    Response: We agree that there are a lot of publications on the impact of urban runoff on receiving water quality. A number of these studies are referenced in the Fact Sheet and the findings. We agree that it is not an exhaustive list; however, additional references are not going to strengthen the permit.

41. **Comment:** *Although the Draft Permit and Fact Sheet identify five water bodies located within Riverside County that are listed as impaired under the Clean Water Act section 303(d) list and require TMDLs (Draft Permit at 5 Finding 17; Fact Sheet at 10), this list is not complete. The ROWD identifies four additional water bodies: Chino Creek, Reach 1, Chino Creek, Reach 2, Mill Creek (Prado Area), and Prado Lakes. ROWD at 4-10. The Draft Permit should identify and include these additional water bodies as impaired and requiring TMDLs. Further, the Draft Permit fails to recognize that storm water runoff in Riverside County enters into water bodies that flow/drain into water bodies outside the County that are listed as impaired on the section 303(d) list. See, e.g. Santa Ana River Reaches 3 and 4. Additionally, during large storm events, dams along the lower Santa Ana River are lowered to allow flows to continue to coastal waters, causing impacts there. We therefore suggest revising the findings of the Draft Permit to more completely reflect the known impacts of polluted runoff on all receiving waters.*

    Response: Some of the findings have been changed to indicate that the flows from the Riverside County areas may reach the Pacific Ocean under heavy storm conditions (see Findings 28, 45, 46).

    Table 4, page 4-10 of the ROWD is only a partial listing of the surface water bodies in the Santa Ana River Basin as referenced on page 4-9 of the ROWD. This table does not specifically refer to those water bodies in Riverside County. However, upon closer review of the four additional water bodies referenced in the comment we find that Chino Creek - Reach 1, Chino Creek - Reach 2, and Prado Lakes would require a major rise in the water level in the lake behind Prado Dam in order for storm water

from Riverside County to impact these water bodies. Cucamonga Creek-Valley Reach and Mill Creek (Prado Area) are water bodies within, Riverside County or water bodies that could reasonably receive storm water from Riverside County. However, upon closer review of this area it is primarily a non-urban area with dairies and agricultural land use that are currently exempt from this permit. The current references seem to be more appropriate for urban storm water runoff from the permitted area.

42. **Comment: Discussion of Monitoring Results.** *The Draft Permit lacks any meaningful discussion of monitoring results obtained under the previous two permit terms. It is inappropriate that the Draft Permit fails to discuss particular pollutants of concern as identified in current monitoring efforts by the Permittees. …The Draft Permit's lack of consideration and information on monitoring results effectively precludes the Regional Board from making an informed decision on its administrative action to renew the permit. It also precludes the Board from conducting or supporting an anti-degradation analysis, as discussed in the next section. Equally important, the Draft Permit's failure to include or even acknowledge information on monitoring results violates 40 C.F.R. § 122.26(d)(2)(iii)(A)(3), which requires that such quantitative data be provided to the Board in the permit application process.*

Response: Additional discussion is included regarding the monitoring results in Findings 33, 34, and 35. The annual reports provide a statistical summary of the analyses performed on water samples collected from dry weather outfalls, wet weather outfalls, and receiving water locations. In addition, the DAMP (1993), Table 2-1 provides a listing of the pollutants of concern for Riverside County.

43. **Comment: Lack of Anti-degradation Analysis.** *The Draft Permit does not include an anti-degradation analysis, contrary to legal requirements. The stated basis for excluding such analysis is that the Permit will improve water quality and that the storm water discharges are consistent with state and federal anti-degradation requirements. This is far from clear…. The Board's present finding that "loading rates" will be reduced is devoid of support and cannot stand on its own; in addition, the corollary finding that, therefore, the quality of receiving waters will improve does not follow necessarily. As per SWRCB Order No. 90-5, anti-degradation analysis is required.*

Response: The proposed Permit includes additional requirements to control the discharge of pollutants. Based on additional requirements specified in this Permit, there is no reason to believe that water quality degradation will take place upon implementation of the provisions of the proposed Permit and other programs (DAMP, monitoring program) and policies and programs of the Riverside County storm water program. NRDC's assertion that WQ 90-5 is applicable to this Permit is invalid because, unlike the permits discussed in WQ 90-5, this Permit does not allow the discharge of toxic pollutants in greater quantity than had been allowed in previous permits. Therefore, no further anti-degradation analysis is necessary.

44. **Comment: Deferral of Compliance**. *The Draft Permit proposes to delay compliance with many provisions for a period of one to three years. See, e.g., Section V (Legal Authority requirement delayed until 2003); Section VI (Illegal/Illicit Connection requirement delayed until 2003-2004); Section VII (Sewage Spill requirements delayed until 2003); Section VIII (New and Redevelopment requirements delayed until 2004). This approach does not assure that an*

adequate storm water program will be implemented concurrent with the issuance of the permit itself. There is simply no justification for such extraordinary delays, especially as applied to the most basic storm water control actions.

Response: The requirements specified in the 1990 and 1996 Permits have been met. The Permittees have programs in place to address illegal discharges/illicit connections and most other provisions of the federal regulations. However, additional and improved BMPs are needed to be in full compliance with the water quality standards. The adequacy of Permittees' legal authority needs to be periodically reviewed and updated, hence this continues to be a permit requirement. There are time schedules included in the Permit for further improvements to the existing programs in consideration of the fact that the municipalities need to obtain additional funding through a budget process.

45. **Comment: *Finding Regarding Natural Background Pollutants.*** *Finding 4 states that the Order "is not intended to address background or naturally occurring pollutants or flows." Draft Permit at 1. However, the San Bernardino, Orange County, and Los Angeles County storm water permits do not include such a provision. In order to have consistency among storm water permits in this region, this provision in Finding 4 should be deleted.*

Response: Please see revised language which is similar to Finding 13 in the San Bernardino permit and Finding 17 in the Orange County permit.

46. **Comment: Finding Regarding Focus of NPDES Program.** *There is no evidence in the record to support the claim in Finding 5 that "[f]rom 1972 to 1987, the main focus of the NPDES program was to regulate conventional pollutant sources such as sewage treatment plants and industrial facilities. As a result, non-point sources, including agricultural runoff and urban storm water runoff, now contribute a larger portion of many kinds of pollutants than the more thoroughly regulated sewage treatment plants and industrial facilities." Please explain the purpose of this statement in the Permit. Ultimately, this statement should be deleted from the Permit because there is no explanation of its purpose, the conclusion it makes is unsupported, it is not included in the San Bernardino County, Orange County, or Los Angeles County permits, and it is not necessary.*

Response: Please see subsequent clarifying language (Findings 7, 8, 9, 10) that outlined the chronology of CWA amendment and requirements that expanded the regulatory focus to other sources of pollution, including storm water.

47. **Comment: Finding Regarding DAMP.** *We object to the statement in Finding 6 that "[t]he Permittees are implementing an approved drainage area management plan (DAMP) that properly manages urban runoff from these sources in those portions of the permitted area under their jurisdiction." Based on our review of the portions of the DAMP that we have obtained so far, it is completely inadequate and is not "properly managing runoff." Thus, Finding 6 is completely unsupported.*

Response: Referenced statement has been deleted.

48. **Comment: Finding Regarding Definition of MEP**. *Finding 8 should be deleted entirely. This type of finding does not appear in the San Bernardino or Orange County permits*

and does not provide any information necessary for the Permit. The standard used to regulate industrial storm water is not relevant to this Permit. Further, as discussed in more detail below, the definition of Maximum Extent Practicable (MEP) found in footnote 2 should be revised to be consistent with the definition provided in the San Bernardino County permit. Not only will this provide needed consistency between these two counties, the MEP definition used in the San Bernardino County permit provides for clear and concise definition and is consistent with the Clean Water Act (see full discussion below).

Response: Please see revised language. The finding itself is consistent with the federal laws and regulations and provides additional clarification. The definition of MEP referred to in Finding 8 has been moved to the Glossary, Appendix 4.

49. **Comment: Finding Regarding Area Wide Permits.** *Cooperation among Riverside, San Bernardino and Orange counties is critical for an effective watershed management program. Thus, consistent with the findings in the San Bernardino permit, Finding 9 should include a statement which states "[f]or an effective watershed management program, coordination among the regulators, the municipal permittees, the public, and other entities is essential."*

Response: Please see revised language, requested changes made in Finding No. 39.

50. **Comment: *Finding Regarding Beneficial Uses*.** *Although Finding 24 of the Draft Permit discusses protecting beneficial uses, there is no finding that contains or lists the beneficial uses of the water bodies. Please add a finding listing the beneficial uses, similar to findings in the San Bernardino and Orange County permits.*

***Response*:** Please see revised language in Finding No. 24 of the August 23, 2002 version of the Order. The beneficial uses are listed.

51. **Comment: Finding Regarding Receiving Waters.** *Finding 29 states that the permittees must ensure, "to the MEP," that flows from the MS4s do not cause or contribute to an exceedance of the water quality objectives in the receiving waters. The State Board has directed regional boards to include specific receiving water limitations language in all municipal storm water permits. See Environmental Health Coalition SWRCB WQ 98-01 (1998), amended by SWRCB WQ 99-05 (1999). The State Board language does not include the "to the MEP" language contained in Finding 29*.

Response: The receiving water limitations language in Section III is consistent with State Board Orders No. 99-05 and 2001-15. It is not necessary to have the exact language in the finding.

52. **Comment: Finding Regarding Previous Monitoring and Reporting.** *Although Finding 32 states that the principal permittee administered the monitoring and reporting program from 1995 through 2000, the Draft Permit contains no discussions regarding the data results from this monitoring. The permit should include the monitoring data from this time period as well as any conclusions drawn from the data, similar to the discussion in the San Bernardino permit.*

Response: Findings No. 33, 34, and 35 have been added to address this comment.

53. **Comment: Finding Regarding Violation of Water Quality Standards.** *There is no evidence in the record to support the claim in Finding 41 that the nature of storm water discharges requires additional time to determine whether these discharges are causing or contributing to violations of water quality standards. Storm water controls have been in place for over a decade and monitoring data and other public documents demonstrate the storm water discharges, at a minimum, are contributing to water quality objective violations. There is also no evidence to demonstrate that the "iterative" process described to assess the contribution of storm water to these violations has been implemented or that any additional BMPs have been designed or implemented to correct violations. Finding 41 states "the Order establishes an iterative process to maintain compliance with the receiving water limitations." However, if the receiving water limitations are being met, then there is no need for the iterative process since the iterative process is a way of meeting receiving water limitations. Thus, the sentence should be changed from "maintain" compliance to "achieve" compliance.*

Response: Please see revised language, appropriate changes were made in Finding 45.

54. **Comment: Finding Regarding Failure to Include Numeric Effluent Limits.** *There is no evidence to support the claim in Finding 48 that numeric effluent limits are not appropriate because "the impact of the storm water discharges on the water quality of the receiving waters has not yet been fully determined." Draft Permit at 11. As we have described: (1) monitoring has been conducted for more than ten years; (2) there is evidence connecting storm water runoff to receiving water violations in the region; (3) the Section 303(d) List notes that runoff contributes to the impairment of many receiving waters as does the Permit itself (see e.g., Draft Permit at 5, Finding 17); and (4) federal regulations required that the permittees provide specific information on annual pollutant loads and event mean concentrations for pollutants ten years ago, in 1990. 40 C.F.R. § 122.26(d)(2)(iii). For all of these reasons, significant evidence exists to prove that storm water has the reasonable potential to cause or contribute to the violation of applicable water quality standards. Accordingly, numeric effluent limits are mandatory under 40 C.F.R. Section 122.44. The Regional Board must make this finding and, further, must among other things conduct a reasonable potential analysis and thereafter insert numeric effluent limits in the Permit.*

Response: The issue of numeric effluent limits in MS4 permits has been appealed and decided by the State Board and the courts. Both the State Board (Memorandum from Craig Wilson to Edward C. Anton dated 03/15/01) and the Ninth Circuit Court of Appeals (9th Cir. 1999, 191 F.3d 1159) have determined that numeric effluent limits are not required in MS4 permits.

55. **Comment: Findings Characterizing the Permittees' "State-of-Mind."** *There is no basis for the Board to characterize the belief or "state-of-mind" of any permittee. See e.g., Draft Permit at 12 (Finding 53 stating that "the permittees recognize the importance of watershed management . . ..) The Board has no evidence to support such findings; thus they are not appropriate.* ***Permit Section I, Responsibilities****. The Draft Permit states that co-permittees' activities should include "[response] to emergency situations such as accidental spills, leaks, illegal discharges/illicit connections, etc. to prevent or reduce the discharge of pollutants to storm drain systems and waters of the U.S." Draft Permit at 15. However, this should be listed as a responsibility, not an activity. See e.g., San Bernardino County Permit at*

17.

Response: Please see revised language at Finding 55, and Section I.A.g. Requested changes have been made.

Permit Section II, Discharge Limitations/Prohibitions.

56. **Comment:** *Paragraph E states that"[w]hen a discharge category is identified as a significant source of pollutants to waters of the United States, the Permittee shall either: Prohibit the discharge category from entering its MS4; or ensure that structural and non-structural BMPs are implemented to reduce or eliminate pollutants." We object to the second clause as an option to addressing discharge categories that are identified as significant sources of pollution. Such an option is illegal. The Clean Water Act clearly mandates that if a discharge category is a significant source of pollution, that source should be effectively prohibited. 33 U.S.C. § 1342(p)(3)(B)(ii). The second option proposed above would not accomplish this because it appears to allow only a reduction in pollutants in the discharge.*

Response: The referenced federal regulations are:

> *" (B) Municipal discharge*
>
> *Permits for discharges from municipal storm sewers--*
> *(i) may be issued on a system- or jurisdiction-wide basis;*
> *(ii) shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers; and*
> *(iii) shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants."*

The proposed language is consistent with *33 U.S.C. § 1342(p)(3)(B)(iii).* The second clause referred to in paragraph F (formerly paragraph E) provides the opportunity for the Permittees to install structural treatment BMPs to eliminate or reduce the discharge of pollutants. In addition, Paragraph C addresses the need for a De Minimus permit if the referenced discharges become significant sources of pollutants.

57. **Comment:** *Second, the Draft Permit also allows a discharge exemption for discharges covered by "written clearances issued by the Regional or State Board." Draft Permit at 16. However, it is still unclear what is meant by the reference to "written clearances issued by the Regional or State Board." Draft Permit at 16 (Paragraph C-1). What is a "written clearance"?*

Response: Please see revised language, waiver[2] has replaced "written clearance".

58. **Comment:** *Several discharge limitation/prohibitions provisions that are contained in the San*

[2] See Water Code Section 13269

Bernardino permit (and other permits throughout the region) have been omitted from the Draft Permit. These provisions should be included in the Riverside Permit. The provisions are:

- *Non-storm water discharges from permittees' activities into waters of the U.S. are prohibited unless the non-storm water discharges are permitted by an NPDES permit or are included in paragraph 3 of this section.*
- *Discharges from the MS4 shall be in compliance with the discharge prohibitions contained in the Basin Plan.*
- *Discharges from the MS4s of storm water, or non-storm water, for which a permittee is responsible, shall not cause or contribute to a condition of nuisance as that term is defined in Section 13050 of the Water Code.*

Response: The Basin Plan language has been added to Section II.H. Also, please see Section III. B. for nuisance language.

Permit Section III, Receiving Water Limitations.

59. **Comment:** *Paragraph A of the receiving water limitations section, should be modified to include the following underlined language:*

> *"[d]ischarges from the MS4 shall not cause or contribute to exceedances of receiving water quality standards (designated beneficial uses and water quality objectives contained in the Basin Plan and attachments thereto) for surface waters or ground waters."*

Response: Please see revised language. The clause "and amendments thereto" is appropriate and will be added in the next revision.

60. **Comment:** *Paragraph E of this section sets forth the procedures required for exceedances of water quality standards including a provision which allows 90 days for "Permittees to revise the DAMP and monitoring and reporting program to incorporate the approved modified BMPs that have been and will be implemented, the implementation schedule and any monitoring required." What is the justification for increasing the processing time to 90 days? Under the San Bernardino Permit, the Permittees are given 30 days to implement the same process. The Draft Permit should be modified to shorten the time to 30 days for this process.*

Response: Ninety days are provided to simply update the DAMP to incorporate BMP modifications proposed by the Permittees that have been approved by the Executive Officer. This provides a reasonable time period for the Principal Permittee to coordinate with the Co-Permittees. Alternatively, as noted in paragraph E.1, these changes would be incorporated into the DAMP at the next annual update. This timeline does not affect the implementation schedule of the approved modified or additional BMPs necessary to reduce pollutants that are causing or contributing to the exceedance of water quality standards.

Permit Section V, Legal Authority/Enforcement.

61. **Comment:** *Paragraph A states that "[p]ermittees shall continue to maintain and enforce adequate legal authority to control the contribution of pollutants to the MS4 by storm water discharges . . . ." Draft Permit at 19. This provision should not be limited by the clause "by*

storm water discharges." Rather, the paragraph should read: "permittees shall maintain and enforce adequate legal authority to control contributions of pollutants to the MS4." This change is necessary to be consistent with the Clean Water Act and other permits in the region.

Response: Please see revised language.

62. **Comment:** *Paragraph B refers generally to an "Enforcement Guidance." What is the "Enforcement Guidance" to which this refers? Where may it be found? Is it in the DAMP? We cannot evaluate these provisions without access to the documents, which are cited here.*

Response: The Enforcement Guidance Document referenced in the permit may be found on the Regional Board website:
http://www.swrcb.ca.gov/~rwqcb8/rcpermit/RC_ENF.pdf.

63. **Comment:** *Paragraph E requires the permittees to review their ordinances to assess their effectiveness in prohibiting a variety of non-storm water discharges to the MS4. Draft Permit at 20. As noted above, the permittees must already be able to prohibit these discharges, and should have been able to do so for the last decade. What, therefore, is the basis of this request? Further, we object to the clause that states "the Permittees may propose appropriate control measures in lieu of prohibiting these discharges, where the Permittees are responsible for ensuring that dischargers adequately maintain those control measures." Under the Clean Water Act, the permittees are directed to "effectively prohibit" these discharges. This is the standard that must be applied.*

Response: This language is consistent with the language proposed as an alternative by Defend the Bay and the National Resources Defense Council (NRDC) – dated April 8, 2002, and accepted in Order No. R8-2002-00012 for the San Bernardino County MS4 permit.

Permit Section VI, Illicit Connections/ Illegal Discharges.

64. **Comment:** *The Draft Permit does not contain any overarching performance standard directing specific, affirmative actions to eliminate illegal and illicit connections. Instead, the Draft Permit only requires that the permittees continue to prohibit these connections and activities through their ordinances and to continue to implement inspection and monitoring programs, (Draft Permit at 21); and specifies a time frame in which investigation and remedial action must occur once a problem activity or connection is discovered. Id. at 21-22 (Section VI (A)-(E)). However, the Draft Permit does not contain any express schedule of targeted actions, such as inspections. Also, the Draft Permit does not contain any program to catalogue (and update on an ongoing basis) both permitted and non-permitted connections to the MS4 system, a step that is a predicate to effective management of the system and interdiction of illicit or illegal activities. By contrast, the Los Angeles Permit requires permittees to "eliminate all illicit and illegal discharges . . . ." LA Permit at 51-53. The Los Angeles County permit also sets forth a specific schedule of inspections and also requires that a full database be maintained that identifies all permitted and un-permitted connections to the storm drain system. Id. The San Diego permit similarly contains affirmative requirements to "actively seek and eliminate illicit discharges and connections" and "eliminate all detected illicit discharges . . . immediately." San Diego County Permit at 36 [Section F.5]. Given that we are ten years into the program, the Draft Permit should be revised to contain specific and affirmative requirements regarding the immediate elimination of illicit connections and discharges*

consistent with these other third round MS4 permits in the region.

Response: During the first and second term of the permit, the Permittees have completed a comprehensive survey of their storm drain systems for illicit connections and have taken corrective measures for those found. Their current program is to focus on locating and preventing or correcting illicit connections as part of their Enforcement/Compliance Strategy. The Strategy provides the Co-Permittees up to ten days to respond to any newly discovered illicit connections. The Permit allows up to 60 days for these illicit connections/illegal discharges to be corrected.

65. **Comment:** *Paragraph C of the Draft Permit should be modified so that it is similar to the San Bernardino permit, which states "[t]he Permittees shall implement appropriate control measures to reduce the discharge of pollutants, including trash and debris, to waters of the United States. These control measures shall be reported in the annual report." San Bernardino Permit at 22.*

Response: Please see revised language.

Permit Section VIII, New Development.

66. **Comment:** *This section of the Permit is inconsistent with the MEP standard because it fails to include a current program requiring the installation of structural best management practices (SUSMP provisions) as required by the State Water Resources Control Board in Order WQ 2000-11 ("Order"). The State Board's Order clearly holds that these SUMSP provisions constitute MEP for new and redevelopment. The Order also states that all new municipal storm water permits that are adopted must be consistent with these SUSMP principles. Specifically, the Chief Counsel of the State Board who expressly notified all Regional Board executive Officers that: [M]unicipal storm water permits must be consistent with the principles set forth in [the Order]. The Order finds that the provisions of the SUSMPs [Standard Stormwater Mitigation Plans], as revised in the Order, constitute MEP. Memorandum from Craig M. Wilson, Chief Counsel, to RWQCB Executive Officers (December 26, 2000) (attached hereto). Pursuant to the State Board Order, the Permit must require that a SUSMP program equivalent to or more stringent than that approved by the State Board be implemented immediately by the permittees. Therefore, the lengthy delay provided in the Permit for implementation of such a program is inappropriate. Further exacerbating this problem with delay, footnote seven opens a massive loophole. This footnote essentially exempts projects with approved tract maps but without building or grading permits at the time the program finally goes into effect sometime in 2004 from the SUSMP requirements. Also, we would like to point out in this connection that there is no inconsistency between the SUSMP provisions and regional approaches to storm water pollution mitigation. NRDC and Defend the Bay support regional approaches, but they are not substitutes for the SUSMP program. In addition, the Draft Permit contains no such proposed or adopted regional program that can be evaluated or implemented immediately pursuant to the State Board's directive. This omission is also inconsistent with Clean Water Act regulations that require new development and redevelopment structural controls. 40 C.F.R. Section 122.26(d)(2)(iv)(a)(2). Thus, this section of the Draft Permit must be modified to reflect current law. Finally, the omission of a SUSMP program in a growing area like Riverside County is difficult to comprehend. Few California counties still have an ability to protect water quality through the*

timely use of structural controls in new development. For all of these reasons, this omission constitutes a significant abuse of discretion.

Response: The Permittees have an existing program for new developments that requires structural and non-structural controls (Supplement A to the Riverside County Drainage Area Management Plan). The Permittees are required to continue to implement this program until development and implementation of regional water quality management plans or the numeric sizing criteria (SUSMPs) are implemented. These provisions are consistent with the State Board's directions and Order No. WQ. 2000-11. We feel that the cut-off date as the date of discretionary approval of tentative tract/parcel map or permit is advantageous. This provides an opportunity for the municipalities to require treatment or infiltration devices and long-term operation and maintenance responsibilities included as part of the local conditions for project approval. Similar cut-off dates were included in our Construction Permit for San Jacinto Watershed and the Orange County MS4 permit. Based on our experience with these permits, it does not appear that such a cut-off date will create any sudden rush to get developments approved.

67. **Comment:** *The Draft Permit does not sufficiently contain the required description of "existing structural . . . controls . . . that are currently being implemented" nor "a description of structural . . . control measures to reduce pollutants from runoff from commercial and residential areas . . . that are to be implemented during the life of the permit, accompanied with an estimate of the expected reduction of pollutant loads." 40 C.F.R. §§ 122.26(d)(1)(v)(A), 122.26(d)(2)(iv)(A).*

Response: Please see revised language and the revised Appendix 4 - Glossary.

68. **Comment:** *Paragraph A improperly limits the requirement to ensure that a construction project has an NOI on file to construction sites over five acres. The Draft Permit should be modified to also address project sites on less than five acres consistent with current law as well as the other storm water permits in the region. This can be accomplished by revising Paragraph A to delete the phrase "on five acres of land or more" and instead refer to all construction projects that are required to obtain coverage under the General Permit.*

Response: Please see revised language.

69. **Comment:** *Paragraph B-1 contains a list of new development/significant redevelopment projects for which permittees are required to review their WQMP to ensure that existing requirements are adequate and to revise their WQMP accordingly. Draft Permit at 26. Retail gasoline outlets are conspicuous for their absence from this list. What is the justification for not including this category of facilities? The regulation of retail gasoline outlets is critical to reducing polluted urban runoff because retail gasoline outlets are one of the highest priority sources of pollutants into storm water. See LA County Permit at 3. Failure to include retail gasoline outlets in this program is inconsistent with MEP.*

Response: Retail Gasoline Outlets (RGOs) were removed from the list of projects requiring additional BMPs based on the State Board's SUSMP decision, Order WQ 2000-11. State Board concluded that because RGOs are already regulated and may be limited in their ability to construct infiltration facilities or to perform treatment, they should not be subject to the BMP design standards at this time. The State Board

recommended that the Regional Board undertake further consideration of a threshold relative to size of the RGO, number of fueling nozzles, or some other relevant factors. However, the State Board indicated that the decision should not be construed to preclude inclusion of RGOs in the SUSMP design standards, with proper justification, when the MS4 permit is reissued. The March 1997 California Stormwater Quality Task Force BMP Guide for RGOs can be used by the Permittees as a starting point in drafting BMP requirements for RGOs. However, the Permittees can require other BMPs, as they deem necessary.

Permit Section IX, Municipal Inspection Program.

70. **Comment:** *The Draft Permit's Municipal Program is woefully deficient as compared to inspection programs under other permits, including San Diego, Ventura and the Los Angeles storm water permits. See e.g., LA County Permit at 27- 34. Further, the Draft Permit's inspection program is deficient across all areas, including construction sites, industrial facilities, and commercial facilities. Thus, the program set forth in the Draft Permit cannot meet the Clean Water Act's MEP standard. For instance, the inspection program lacks basic requirements to track, inspect, and ensure compliance at facilities that are critical sources of pollutants in storm water. The Draft Permit also fails to provide detailed requirements and schedules for inspections that are tailored to each type of facility within the broader construction, industrial, and commercial categories. See LA County Permit at 29-31. Instead, the Draft Permit provides generic "one-size fits all" requirements for all types of facilities. The Draft Permit also fails to address and require inspections of other critical sources such as Phase I industrial facilities as identified by the United States Environmental Protection Agency, restaurant facilities, and other federally mandated facilities as specified in 40 C.F.R. 122.26(d)(2)(iv)(C). See LA County Permit at 28; 40 C.F.R. § 22.26(d)(2)(iv)(A)(5) and B (1). The Los Angeles County Permit contains such provisions and should be used as an example. See LA County Permit at 28-32. Further, the Draft Permit is considerably behind in its inspection programs as compared to other permits since it is only now requiring, in the third round of the permit, that inventories of the facilities and model maintenance procedures be established. These are only a few examples of the numerous deficiencies in the municipal inspection program. Due to all of these deficiencies, the program described in the Draft Permit is not consistent with MEP.*

Response: We feel that the permit requirement to inventory and prioritize sites with respect to threat to water quality along with the revised frequency of inspection based on site prioritization is adequate. The site prioritization and inspection schedules are based on threat to water quality. This requirement provides measurable goals absent from the previous term permits for Riverside County. Despite of its absence in previous permits, most Permittees have conducted the required inspections and reported them annually. Also, in spite of not having any specific requirements, the permitttees have reported their street sweeping activities on an annual basis. The data gathered over the years will guide the permittees in optimizing their maintenance activities that would benefit water quality. The permit incorporates minimum performance requirements that we feel is consistent with MEP.

71. **Comment:** *Paragraph A-5 discusses municipal inspection of construction sites and states that "[w]ithin two working days of a discovery, each Permittee shall provide oral or e-mail notification to the [Regional Board] of noncompliant sites . . . ." Why are the permittees allowed*

two working days to notify the Regional Board? Two-working days seems excessive considering that the San Bernardino permit requires permittees to notify the Regional Board of non-compliant sites within 24 hours of discovery. San Bernardino Permit at 24.

Response: Please see revised language.

72. **Comment:** *Paragraph C-8 discusses municipal inspection of commercial facilities and states that "[w]ithin two working days of a discovery, each Permittee shall provide oral or e-mail notification to the [Regional Board] of noncompliant sites . . . ." Again, why are the permittees allowed two working days to notify the Regional Board of non-compliant sites? The permittees should be required to notify the Regional Board of non-compliant sites within 24 hours of discovery. Also, why are the permittees allowed 10 days to submit a written report to the Regional Board instead of five days as required by the San Bernardino permit?*

Response: Please see revised language.

73. **Comment:** *In addition, due to the particular characteristics of Riverside County, the storm water program fails to include provisions to deal with pollutants from dairies and/or other concentrated animal feeding operations ("CAFOs") in the region. This is particularly perplexing given that it is well understood that these dairy CAFOs are a major source of pollution into storm water in the region. See Santa Ana Region Basin Plan. This is specifically expressed in both the Basin Plan for the Santa Ana Region as well as the 1998 Section 303(d) list of impaired water bodies, which lists these dairies as sources of impairing pollutants. From a regulatory perspective, storm water inspections are required for industrial and commercial facilities. Storm water discharges from CAFOs are industrial discharges covered under this rubric. Indeed, these dairy CAFOs are regulated under their own Region wide Dairy General Permit, which specifically states that it supplants the dairies' previous coverage under the statewide General Industrial Storm Water Permit. See SARWQCB Order No. 99-11, General Waste Discharge Requirements for Concentrated Animal Feeding Operations (Dairies and Related Facilities) Within the Santa Ana Region, Finding 9. Therefore, the inspection program should be revised to include requirements for inspections of concentrated animal feeding operation facilities.*

Response: As noted in your comment, Order No. 99-11, General Waste Discharge Requirements for Concentrated Animal Feeding Operations (Dairies and Related Facilities) regulates these facilities. These sites are by Regional Board staff on a regular bias. In addition, with two exceptions as per federal regulations, Order 99-11 prohibits discharge from these facilities off-site.

Permit Section X, Education and Outreach.

74. **Comment:** *No evidence is presented to demonstrate that the program required by the Draft Permit meets the MEP standard, especially in light of evidence that the program is significantly less comprehensive than programs being implemented by comparable entities in the region.*

Response: The permit requirements include many public education and outreach activities and responsibilities of the Permittees, and compliance with these provisions should constitute an effective program. It also requires that a survey be conducted to measure the changes in awareness as a result of the education programs. Staff will

monitor compliance with these provisions of the permit to further determine its effectiveness.

Permit Section XI, Municipal Facilities Programs and Activities.

75. **Comment:** *The Draft Permit fails to provide specific program requirements for:*
- *Sewage System Maintenance, Overflow, and Spill Prevention*
- *Vehicle Maintenance/Material Storage Facilities/Corporation Yard Management*
- *Landscape and Recreational Facilities Management*
- *Storm Drain Operation and Management*
- *Streets and Roads Maintenance*
- *Parking Facilities Management*
- *Public Industrial Activities Management*
- *Emergency Procedures (other than fire)*
- *Treatment Feasibility Studies*

See LA County Permit at 45-51.

Response: Requirements for Sewage Spill Response and Prevention may be found in Section VII. A. Please also refer to our response to comment 20.
Requirements for Storm Drain Operation and Management may be found in Section XI. F, G and H.
Requirements for Streets and Roads Maintenance may be found in Sections XI. F, L & M, and,
The existing program for Storm Drain Operation and Management, Streets and Roads Maintenance, Vehicle Maintenance/Material Storage Facilities/Corporation Yard Management, and Public Industrial Activities Management, are described in the Municipal Facilities Strategy or the DAMP. We need more information on what requirements for Treatment Feasibility Studies, Parking Facilities Management, and Emergency Procedures (other than fire) are being referred to in this comment to determine whether these are already addressed in the permit or other documents.

76. **Comment:** *Critically, the program in the Draft Permit does not even contemplate developing a storm water pollution prevention plan, as included in other storm water permits and required by law. See 40 C.F.R. §122.26(d)(iv). In the Los Angeles County MS4 permit, the permittees are required to prioritize catch basin locations, based on potential loading (sub-watershed land uses) and clean high priority catch basins on a monthly basis during the wet season. Consequently, Section XIV.7 requires the permittees to develop and implement a catch basin inspection/maintenance schedule similar to the proposed Los Angeles County MS4 permit. Similarly, the storm drain operations and management section is conspicuously sparse in the Draft Permit. In fact, the Draft Permit does not even contain minimum requirements for catch basin inspection and cleaning. In contrast, for many years, Los Angeles County and many other entities have cleaned 100% of the catch basins annually, prior to the rainy season. See e.g. County of Los Angeles Implementation Manual, Volume IX (at 3-2) (relevant portions are attached hereto). In sum, there is no evidence that the Draft Permit's municipal facilities programs and activities meet the MEP standard. Moreover, the Draft Permit requires the*

permittees to implement a "Municipal Facilities Strategy" to endure that public agency activities do not cause or contribute to a condition of pollution or nuisance in receiving waters. First, what is this Municipal Facilities Strategy? Again, without this information, we cannot provide comprehensive comments on the proposed program. Moreover, the public agency activities and facilities must meet all of the discharge prohibitions and receiving water limitations in the Permit, not just California Water Code section 13050. See Draft Permit at 37, Paragraph C.

Response: Please see Section XII.C and XII.D. requiring the Permittees to have a SWPPP and comply with all "terms and conditions of the latest version of the State's General Construction Activity Storm Water Permit that are applicable" except filing a NOI with the State Board. This includes preparing and implementing a Storm Water Pollution Prevention Plan (SWPPP) and a monitoring program consistent with the State's General Construction Activity Storm Water Permit. Under the Tentative Order, the Co-Permittees will continue to comply with the State's General Construction Activity Storm Water Permit by filing the NOI with the Regional Board and preparing and implementing a monitoring program and SWPPP.

The Municipal Facilities Strategy can be found on our website at: http://www.swrcb.ca.gov/~rwqcb8/rcpermit/RC_MUN.pdf.Catch. The permit also includes requirements to inspect, clean, and maintain storm water conveyance systems (see Section XI.F of August 23, 2002 draft).

Permit Section XII, Municipal Construction Projects/Activities.

77. **Comment:** *As proposed, the Draft Permit's municipal construction projects/activities section appears to provide a blanket authorization to discharge without any conditions. Specifically, paragraph A is worded in a way that infers this. This language should be corrected to be more specific as to what is allowed under the Permit. At a minimum, the program must require compliance with the MEP standard and all terms, conditions and requirements of the statewide general construction permit and/or the San Jacinto Watershed Storm Water Permit. Again, the program in the Draft Permit is far inferior to similar programs in other permits issued in the region. For instance, in addition to the problems noted above, the requirements of storm water prevention plan, as mentioned in paragraph D, should be described in detail. Overall, this program is improper, as it does not meet the MEP standard.*

Response: Paragraph A has been revised to include reference to the most recent General Construction Permit. The requirements and description of the SWPPP noted in paragraph D also reinforces the point that the requirements applicable to construction sites covered under the General Construction Activities Permits are also applicable to similar municipal construction projects.

Monitoring and Reporting Program (Appendix 3).

78. **Comment**: *The Permit's monitoring and reporting program does not contain any specific monitoring requirements. Instead, the Program requires the permittees to submit a program for approval by the Executive Officer within one year of adoption of the permit. Appendix 3 at 1-2. This is improper for several reasons.*

First, the one-year time period creates too long of a delay before the monitoring program can be implemented. If the Permittees wished to develop their own program, they should have submitted a draft program with the ROWD and permit application so that it could have been reviewed and approved by the Board along with the Permit. Then the program could have been implemented upon adoption of the permit, providing at least a year or maybe more of additional data.

Second, the proposed process for adoption of a monitoring program does not allow for public notice and comment. This leads to the situation where the public is not given a chance to review and provide feedback on the proposed monitoring program, which is an integral part of the Permit as well as the means by which Permit compliance may be determined. It also makes it difficult to determine whether the ultimate program is adequate to meet the requirements of state and federal laws. This does not comport with public notice requirements under the Clean Water Act. Third, although the Permit sets forth a few general monitoring program component requirements (Appendix 3 at 2), these monitoring program requirements are not sufficiently specific. This again makes it difficult to review and comment on the adequacy of the monitoring program to meet the goals of the Permit and the Clean Water Act. For instance, the Program requires that the permittees develop a monitoring program that contains components such as mass emissions, microbes, toxicity and land use correlation. However, there is no requirement for a basic receiving water quality monitoring component for standard constituents or bioassessment requirements. Even if these might be part of an existing program, it should be mentioned and acknowledged in the Permit's monitoring and reporting program. In addition, the requirements under each of the components that are listed are too vague and basic to provide adequate direction for the ultimate monitoring program that is developed. Fourth, general monitoring and reporting provisions found in the federal regulations are not specifically included in the Permit. See e.g., 40 C.F.R. §§ 122.41 and 122.26 Fifth, the monitoring programs under the various municipal storm water permits, including Riverside, San Bernardino, northern and southern Orange, and San Diego counties, should be comparable and provide consistent data. Given this, the minimal program that is laid out in the Draft Permit should ensure that this program is at least similar to and consistent with other monitoring programs. However, the draft program does not appear to accomplish this. As just one obvious example, the San Bernardino County permit states that San Bernardino County is acting in coordination with Riverside County. (San Bernardino Permit at 63.) Yet the Draft (Riverside) Permit does not include a similar reference. Similarly, the following requirements for a monitoring program that appear in the San Bernardino Permit are missing from Paragraph C-3-e of the Draft Permit:

• Characterization and identification of sources of pollutants in storm water runoff and an assessment of the influence of land use on water quality;

• Identification of significant water quality problems related to storm water discharges within the watershed;

• Evaluation of the effectiveness of existing management programs, including an estimate of pollutant reductions achieved by the structural and nonstructural BMPs;

• Evaluation of sources of bacteriological contamination in the Santa Ana River in coordination with San Bernardino County;

• Identification of those waters which without additional action to control pollution from storm water discharges cannot reasonably be expected to attain or maintain applicable water quality standards specified in the Basin Plan; and

• Analysis and interpretation of the collected data to determine the impact of storm water runoff and/or validate any water quality models. These are all-important components of a monitoring and reporting program and should be added to the requirements of the Draft Permit.

Finally, we urge the Board to consider and adopt a more comprehensive monitoring and

reporting program into the Permit itself that sets forth specific requirements such as sampling locations and mass emissions stations, numbers of samples to be taken, constituents to be analyzed, bioassessment requirements, sampling frequencies, sampling methodologies, QA/QC, and TRE specifications. We refer the Board to the Monitoring and Reporting Program included in the Los Angeles Permit, attached hereto, which provides an example of a detailed and comprehensive storm water monitoring program sufficient to meet all of the goals set forth in the Permit and under the Clean Water Act.

The inclusion of a comprehensive program in the Permit itself would solve most of the problems raised above and would also provide much greater direction for the permittees, ensure that the program meets all of the Permit's goals and goals of the Clean Water Act, and also ensure that an effective program is implemented in a much shorter timeframe.

Response: We disagree that submittal of a program at a later time is inappropriate. The permittees have conducted monitoring for the last 10 years. It is appropriate to evaluate the data obtained from the program, other regional programs, ongoing TMDL efforts and re-evaluate the monitoring program. Development of an integrated monitoring program will maximize the funds and efforts invested. Coordinated effort will require time. The monitoring objectives specified in the monitoring and reporting program will dictate the number of monitoring stations, number/type of samples, location, etc.

Please refer to Appendix 3, Section II. F, C, N, O, A, and E for the referenced missing items.

Permit Section XVI, Permit Expiration and Renewal.

79. **Comment**: *Paragraph A discusses the requirements for a Report of Waste Discharge. This section is missing the requirement "to include any new or revised program elements and compliance schedule(s) necessary to comply with the receiving water limitations section." While this provision is included later in the Permit, it should be in this section on ROWD requirements.*

    Response: The proposed language was added to Section XVI.A.2. of the draft Order.

80. **Comment:** *Due to the expected development of TMDLs, paragraph B should explicitly state that the Order may be modified, revoked or reissued prior to its expiration date to incorporate any requirements imposed upon the permittees through the TMDL process.*

    Response: The proposed language was added to Section XVI.B.5. of the draft Order.

81. **Comment:** ***Definition of MEP:*** *The Draft Permit contains a footnote with a mini-definition of MEP and a full definition of MEP in the glossary section. As an initial matter, these definitions should be identical. Second, both of these definitions are inconsistent with the terminology used in the Clean Water Act. The Clean Water Act and its implementing regulations do make any mention whatsoever of "feasibility." The term is maximum extent practicable, not maximum extent feasible. We have seen nothing in the Clean Water Act, from EPA, or from the State Board to suggest such an equivalency and the two terms are not*

synonymous. It is entirely unclear where this definition came from, as it is not consistent with either EPA's interpretation of MEP in the regulations or the State Board's definition of MEP, as set forth in the memo of February 11, 1993. To avoid any further problems with this definition, we propose that the definition of MEP in both places be deleted and replaced with the definition used in the San Bernardino County Permit. This definition has been used in other area storm water permits as well, which is important for uniformity. For your convenience, the language is as follows:

> *MEP means the standard for implementation of storm water management programs to reduce pollutants in storm water. CWA section 402(p)(3)(B)(iii) requires that municipal permits "shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants. Specifically, municipalities must choose effective BMPs, and reject applicable BMPs only where other effective BMPs will serve the same purpose.*

Response: Please refer to the MEP definition in the Glossary – Appendix 4.

82. **Comment:** *Based on the above, the Draft Permit itself is seriously inadequate and contains many deficiencies in comparison to other storm water permits. It is difficult to understand how the Regional Board can propose to issue such a grossly deficient Permit to tackle southern California's largest source of water pollution.*

Response: We disagree. Compliance with the storm water program contemplated by this order should result in the development and implementation of continuously more effective BMPs, and that, along with requirements for compliance with TMDLs should result in water quality improvements.

G. Response to Construction Industry Coalition on Water Quality (May 13, 2002)

Fact Sheet

83. **Comment: Pg. 1, ¶ 1A**. *"Urban storm water runoff consists of dry and wet weather flows through storm water conveyance systems from urbanized areas." This statement should read urban runoff, not urban storm water runoff. Urban storm water runoff only relates to wet weather flows, not dry weather flows. This line should comply with the San Bernardino permit. Therefore, storm water should be deleted from the sentence.*

Response: Please see revised language.

84. ***Comment:*** *Pg. 2, ¶1A"However, properly planned high-density development, with sufficient open space, can reduce urban sprawl and problems associated with sprawl. Urban in-fill development can be an element of smart growth, creating the opportunity to maintain relatively natural open space elsewhere in the area." While this statement may be true in a given instance, it has no place in this Permit. As a matter of fact, urban in-fill development by its very nature is more than likely to create a high percentage of impervious area on a particular development, thus being in direct conflict with other stated goals, such as maximizing pervious*

area, in this Permit. Smart-growth and other planning efforts in Riverside County should be left where they belong and that is the Riverside County Integrated Plan.

Response: We are supportive of smart growth and low impact development concepts in designing new developments. However, the concept suggested, analogous to implementation of mitigation measures to allow disturbance of an environmentally sensitive area, entertains the concept of an equal exchange; i.e. no net loss of a habitat or destruction of a sensitive area. When this concept is applied to urbanization in a previously undeveloped area, equal exchange is not achievable as there will always be a net loss of undisturbed land.

We agree that in a comprehensive planning process, which includes urban in-fill development or urban sprawl into previously undeveloped areas, all factors must be considered and the projects should be designed to minimize any adverse environmental impacts.

85. **Comment: Finding 32, Pg. 8:** *The Permittees have been spending a lot of money on storm water monitoring, however it does not appear that any of this information is being used to direct Permit requirements. As noted by the monitoring results specified in this section, as well as monitoring results from other regions, residential land-use has not been identified as containing elevated pollutant levels, yet new residential development continues to be targeted heavily in municipal storm water permits. The monitoring data being collected should be used to target requirements and thus limited resources on high-priority areas of concern, not on areas that do not warrant a high level of concern.*

Response: The number of enforcement actions based on evidence collected by Regional Board staff during inspections of construction sites indicates that constructions sites continue to be a significant source of pollutants in storm water runoff. Furthermore, monitoring requirements are an integral part of all NPDES permits and they are critical to define water quality status and trends, to identify sources of pollutants, to characterize pollutants and to evaluate the effectiveness of existing management programs.

86. **Comment: Finding #55, Pg. 12.** *In promulgating MS4 permits, the Regional Board has routinely relied upon Water Code section 13389 to exempt itself from CEQA's requirement that all actions impact the environment be analyzed completely for the public benefit. However, this statement vastly overstates the CEQA exemption. This Permit fails to appreciate the statutory scheme of Chapter 5.5 of the Water Code (containing Section 13389) which was not enacted to excise independent state law requirements from CEQA, but simply to ensure that the regional boards could comply with the minimal requirements of the federal Clean Water act without having first to conduct an EIR. This concern is absent for permit provisions not required by the Clean Water Act.*

Response: Contrary to the comment, the provisions of this permit do not go beyond the requirements of the Clean Water Act. Accordingly, as the State Board recently concluded, CEQA does not apply in the manner asserted. Please see SWRCB Order WQ 2000-11. Also, please refer to our response to Comment 15.

87. **Comment: Part IV. Receiving Water Limitations, Pg. 17, Item #A.** *This provision is not consistent with, and in fact violates, SWRCB Order No. 99-05. In fact, it is the "shall not cause or contribute" language that Order 99-05 expressly struck and replaced. "It is hereby ordered that Order WQ 98-01 be amended to remove the receiving water limitation language contained therein and to substitute the EPA language." (Order 99-05, p.1, emphasis added.) The "EPA language" referred to does not include the "cause or contribute" language that was present in Order 98-01. On the contrary, the EPA language outlines a series of practicable safeguards to reasonably accomplish Basin Plan objectives. Thus, this Permit's strict receiving water prohibitions do not comport with Order 99-05. Further, Order 99-05 expressly includes in its language that it is a "precedential decision," unlike the SUSMP Order. Order 99-05 states outright that the "cause or contribute" language of 98-01 is removed and replaced with the language of Order 99-05. The provisions are mutually exclusive, and Order 99-05 resolved which controls.*

Response: The "cause or contribute" language found in Section IV.1, Receiving Water Limitations, is essentially identical to that found in the Receiving Water Limitation section of the San Diego County Permit. The State Board in Order WQ 2001-15, found the Receiving Water Limitations in the San Diego County Permit to be consistent with SWRCB Order WQ 99-05. Therefore, the "cause or contribute" language is appropriate.

88. **Comment: Part IV. Receiving Water Limitations, Pg. 17, Item #B.** *The requirement "Discharge of storm water, or non-storm water from MS4s for which a Permittee is responsible, shall not cause or contribute to a condition of nuisance as the term is defined in Section 13050 of the Water Code" is not included in the San Bernardino Permit and no justification has been provided as to why Riverside County's permit should be different with respect to this requirement. Therefore, this item should be deleted.*

Response: This requirement has been deleted from the Receiving Water Limitations Section and moved to the Discharge Limitations/Prohibitions Section (Section II.I) consistent with the San Bernardino permit.

89. **Comment: Part XII. New Development, Pg. 24, Item #5.** *By virtue of this reference, and numerous others like it throughout the Permit, it is clear that the Permit attempts to regulate not only the quality of water, but quantity of water as well. Under the CWA's NPDES program, the Regional Board is empowered to regulate pollutants. This does not include quantities of water, absent some showing that the regulation is aimed at pollutants, not simply the existence of a volume or flow rate the Regional Board deems undesirable.*

Response: We are not asserting that "volume" and "flow" should be considered as pollutants. However, it is a well-known fact that increased volume and/or flow through a natural channel could cause increased erosion and carry additional pollutants, such as sediment. Unless such controls are in place, upstream development could have significant adverse impacts on downstream beneficial uses, including aquatic resources. Therefore, such controls should be a part of the overall MS4 program. The preamble to the EPA Phase II storm water regulations states that for post-development, "consideration of the increased flow rate, velocity, and energy of storm water discharges must be taken into consideration in order to reduce the discharge of

pollutants, to meet water quality standards, and to prevent the degradation of receiving streams."[3]

Further, the Clean Water Act authorizes the states to control flows that impair beneficial uses.[4] U.S. EPA guidance points out that impacts on receiving waters due to changes in hydrology can often be more significant than those attributable to the contaminants found in storm water discharges.

90. **Comment: Part XII. New Development, Pg. 24, Item #5a.** *Whether or not intended, there can be no question that the provisions of the Permit have a tremendous impact on the land use decision-making authority of local agencies. To name just a few, the Permit mandates CEQA changes, General Plan amendment procedure changes, and limitation on land uses in areas designated ESAs, regardless of the fact that preexisting designations on which the Permit relies had nothing to do with storm water considerations.*

Response: Storm water and other environmental impacts must be considered early on in the planning stages of a project. The draft permit requires the Permittees to review their planning documents to determine if water quality protection principles and policies are properly addressed in those documents. These considerations do not, however, as suggested, infringe on the Permittees' land use authority. Please refer to our response to Comments 7 and 28.

91. **Comment: Paragraph 9, Page 25: *Review and revise, as necessary Watershed Protection Principles*** *The implementation deadline for this requirement is 3 months less than the deadline included in the San Bernardino Permit. The implementation date should be revised to allow at least the same amount of time. We are also very concerned with the use of the words maximize and minimize in these requirements. The statement, "to the extent technically and economically feasible, should be added to each of these requirements.*

Response: The implementation deadline has been revised.

92. **Comment: Paragraph 10, Page 25:** *Review and revise grading/erosion control ordinances. The implementation deadline for this requirement is at least 4 months shorter than the applicable requirement in the San Bernardino Permit and should therefore be edited for consistency.*

Response: The implementation deadline has been revised.

93. **Comment: Paragraph 7, Pg. 24**. *Protection of beneficial uses of receiving waters sounds like something that everyone should support. However, upon further review, it becomes evident that some beneficial uses (municipal water supply, rec1, etc.) within some receiving waters are not practicable or achievable within the realm of MEP. These beneficial uses were*

[3] 64 Fed. Reg. 68722, 68761 (Dec. 8, 1999)

[4] See Public Utilities District No. 1 v. Washington Det. Of Ecology, 511 U.S. 700 (1994), where the U.S. Supreme Court held that states can establish minimum levels of flow under the Clean Water Act in order to protect the beneficial uses of receiving waters. Although a section 401 certification, the Supreme Court's reasoning clearly stands for the proposition that states may establish conditions to protect state water quality standards. While in PUD No. 1 the standard was protected via certification, here the Regional Board exercised its unquestionable jurisdiction under section 402(p) of the Clean Water Act and established flow limits in natural channels to protect aquatic habitat.

last updated in the 1995 Basin Plan. The problem with this last update is that there is no proof that achievability, housing, or other economic factors were considered when these beneficial uses were established.

Response: Please note that most of these beneficial uses were established during the development of the 1975 Basin Plan. The requirement to consider the above stated factors (Water Code Section 13241) was adopted later. The 1975, 1984, and the 1995 Basin Plans were developed and adopted with public input and consistent with State and federal laws and regulations. The draft permit implements the Basin Plan requirements and storm water laws and regulations. As new water quality objectives are established or if existing water quality objectives are revised, these factors will be taken into account. The Regional Board, in adopting Waste Discharge Requirements must implement the current Basin Plan objectives and beneficial uses.

94. **Comment: Part XII, New Development, Pg. 26, Item #1.** *We object to the Permit's "one size fits all" approach to implementation. Lumping all of these development categories into the same regulatory program ignores obvious thresholds that would result in development and regulatory savings without compromising the efficacy of the program. Specifically: 1) subjecting a 10-unit affordable infill housing project to the same regulatory standards as a 100,00 square-foot commercial shopping center defies logic. The foreseeable impacts of such projects are vastly different, necessitating different levels of regulation and enforcement. The Permit should reflect the obvious realities. 2) The Permit should distinguish between respective land use categories and the types of contaminants of concern associated with such land uses. To subject all land uses across the board to a one-size fits all regulatory mandate misdirects precious resources in unnecessary ways.*

Response: These requirements are consistent with other MS4 permits recently adopted by the Santa Ana, Los Angeles, and the San Diego Regional Boards and recent State Board decisions. The issue had been subjected to intense scrutiny during the SUSMP process at the Los Angeles Regional Board. The Los Angeles SUSMP requirements and the San Diego MS4 permits were appealed the State Board. Please see State Board Orders WQ 2000-11 and WQ 2001-15. The State Board has deemed the SUSMP requirements as MEP.

95. **Comment: Part XII. New Development, Pg. 26, Item 1g**. *The State Board expressly rejected the inclusion of environmentally sensitive areas (ESAs) as a "development category" in Order WQ 2000-11. In particular, the State Board held that the proposal to include ESAs was inappropriate for three reasons: (1) the proposal lacked meaningful application thresholds; (2) such areas are already subject to "extensive regulation under other regulatory programs"; and (3) ESAs are not a "development category." (SWRCB Order WQ 2000-11, pp. 24-25[hereinafter "SUSMP Order"].)*

Response: Reference to environmentally sensitive areas has been deleted and replaced with "areas designated in the Basin Plan as waters supporting habitats necessary for the survival and successful maintenance of plant or animal species designated under state or federal law as rare, threatened, or endangered species (defined in the Basin Plan as "RARE")".

96. ***Comment:*** **Paragraph 3, page 27:***The goal of the WQMP should not be to ensure that urbanization does not significantly change the hydrology for the site. The hydrology for a site is going to be changed with urbanization. The goal of the WQMP should be to reduce, to the MEP, the pollutant impacts to the receiving waters from the changes in this hydrology.*

    Response: This term has been deleted.

97. **Paragraph 3b, page 27:***The statement "The discharge of any listed pollutant to an impaired waterbody on the 303(d) list shall not cause or contribute to an exceedance of receiving water quality objectives." requires additional clarification. What if the discharge is into a water body not impaired, however that water body eventually discharges into an impaired water body?*

    Response: This statement refers to all discharges of a listed pollutant to an impaired water body on the 303(d) list, not merely direct discharges. This language has been revised.

98. **Comment: Part XII. New Development, Pg. 33, Item #3.** *The implementation of regional and/or watershed management programs is the most effective means of dealing with our storm water runoff water quality concerns. Regional solutions offer the following advantages over the site-by-site approach: 1) teamwork "buy in", 2) potential for grants to fund capital costs, 3) economies-of-scale which provide opportunity to cost-effectively address pollutants of concern, 4) ability to establish maintenance districts and 5) large-scale solutions which can be planned and modified to address future regulations (i.e., TMDLs). For these reasons, it is imperative that this Permit provide every opportunity for the regional solutions to be developed and submitted to the executive officer for approval. The San Bernardino municipalities have not even begun regional treatment solution discussions. These discussions take a tremendous amount of time due to the potential conflicts that need to be worked out. These conflicts include establishing stakeholder involvement, locating regional solutions, securing land rights (if necessary), designing regional facilities and providing funding mechanisms for both capital and ongoing maintenance costs, etc. As such, we request that the second line of this paragraph be changed to the following: "The permittees shall submit a revised WQMP to the Executive Officer by October 1, 2004. This revised WQMP shall meet the goals proposed in Section XII.B.2, above, and provide an equivalent or superior degree of treatment as the sized criteria outlined below."*

    Response: Please see revised timelines and language. The current language in the draft permit provides flexibility to the Permittees for regional treatment systems or to use the specified numeric sizing criteria.

H. Response to Sempra Energy (May 30, 2002)

99. **Comment:** ***The Utilities desires that the following specific language be included in the municipality's NPDES Permit Discharge Authorization ordinances:***

> *"The prohibition on discharges shall not apply to any discharge regulated under a NPDES permit issued to the discharger and administrated by the State of California pursuant to Chapter 5.5, Division 7 of the California Water Code under authority of the United States Environmental Protection Agency, provided that the discharger is in compliance with all requirements of the permit and other applicable laws and regulations."*

This is standard language that normally is included in Water Quality Ordinances, and has been agreed to by the County for its discharge authorization ordinance. This allows the utilities to discharge water from vault & substructure and other discharges form dewatering activities related to construction activities. The utilities hold NPDES (National Pollutant Discharge Elimination System) permits that authorize the discharge of water to national water bodies, which include municipal storm sewer systems. The utilities must remain in compliance with these NPDES permits while performing the dewatering activities.

Response: Section II.C. of the draft Order addresses discharges authorized by a separate NPDES permit.

100. **Comment:** *Each municipality should adopt a model ordinance that meets the requirements of the Municipal Storm Water Permits. The County of San Diego's Storm Water Ordinance should be used as the model. Consistency between jurisdiction is critical. Developing different Pollution Prevention Plans, Standard Practices, Training Programs, Inspection Programs for each municipality within our service territory would be extremely unwieldy and virtually unworkable.*

Response: Riverside County has adopted a model ordinance that each municipality has used to develop their Urban Runoff Ordinances.

101. **Comment:** *The definition for Land Disturbance Activity in the Municipal Storm Water Permits should not include routine maintenance to maintain the original line and grade, hydraulic capacity, easement, right-of-way, or the original purpose of the facility, nor shall it include emergency construction activities required to protect public health and safety. These activities should be excluded from the definition of Land Disturbance because they are not construction projects as defined by the Municipal Permit SUSMP requirements. The utility activities for grading, trenching, right-of-way/easement maintenance, and for unpaved access road development are usually short-term maintenance projects, not requiring the long-term implementation of BMP's (Best Management Practices) as defined by the SUSMP requirements. Therefore, the Utilities are asking that Municipalities in developing their storm water ordinances exempt these activities from the SUSMP requirements.*

Response: Section II.C.3. has been modified to include emergency water flows associated with activities to protect public health and safety other than just fire fighting. In addition, the definition of "Land Disturbance" has been added to the Glossary found in Attachment 4. This definition excludes the situation where grass is mowed or just knocked down and the soils are not exposed.

102. **Comment:** *Exempt the unmanned facilities from BMP inspection requirements. The Municipal Permits defines these facilities within the category of "Commercial Facilities" and thus requires inspections. These inspections of (BMP's) are required before and after each predicted rain event. It is unrealistic to develop BMP's and Storm Water Pollution Prevention Plans (SWPPP's) for the thousands of unmanned facilities (i.e. substations, compressor stations, vaults and substructures, etc.) that have no "Threat to Water Quality" (no pollutants) issues.*

Response: The referenced facilities would be classified as Industrial Sites rather than Commercial Sites. In addition, "Oil and Gas facilities that have not released storm water resulting in a discharge of a reportable quantity (RQ)…are not required to be permitted under the Industrial General Storm Water Permit, unless the industrial storm water discharge contributes to a violation of a water quality standard" (Order No 97-03-DWQ). Therefore, any requirements for inspection of oil and gas facilities before and after rainfall events would be based on local ordinances. The municipalities are required to prioritize these sites based on threat to water quality and the inspection frequencies are to be based on this prioritization scheme. If these unmanned sites are not a significant threat to water quality, they are likely to be low priority sites for municipal inspections.

103. **Comment:** *If maintenance and repair activities of vehicles and equipment is conducted under a roofed area or with Structural BMP's, then these activities shall not be prohibited during times of precipitation. The Utilities possesses many indoor garages where there is no threat to water quality from the vehicle maintenance and repair activities because we perform these activities in roofed areas or we implement structural BMP's to prevent storm water pollution.*

Response: We agree. Normal vehicle and equipment maintenance and repair activities conducted within indoor garages would not contribute substantial pollutants to storm water.

104. **Comment:** *Commercial facilities that do not pose a threat to water quality from storm water shall not be defined as "High Priority Commercial Facilities". The Municipal Storm Water Permits define high priority commercial facilities as those having fueling activities, vehicle maintenance activities, and hazardous material storage areas. If there is no threat to water quality from these activities because they are conducted in roofed areas or are controlled by structural BMP's, then the facilities that conduct these activities should not be categorized as High Priority Commercial Facilities.*

Response: Please see the Response to Comment #101. Oil and Gas facilities referenced would be industrial and not commercial facilities.

105. **Comment:** *Routine maintenance to maintain easements and right-of-ways and related construction should not be categorized as priority projects requiring Post-construction BMP's. These routine maintenance and construction projects are usually short-term, do not create impervious surfaces, are not performed during rain events, and BMP's are normally implemented for storm water pollution prevention. These short-term projects* ***do not*** *have the potential to add pollutants to stormwater or to affect the flow rate or velocity of stormwater runoff after construction is completed.*

Response: Post-construction BMPs are required on all construction sites disturbing 5 acres or more (after March 2003, 1 acre or more). The classification of the site as high, medium, or low, priority does not negate the need for post-construction BMPs.

I. Response to Southern California Water Quality Coalition (May 31, 2002)

106. **Comment:** *The Board must take into account societal, economic and technological considerations. To meet the MEP standard, the Board must demonstrate that the Permit requirements can actually be accomplished before requiring certain standards in the Permit. Further, the Board must also demonstrate that the Permit's requirements are economically feasible. It must consider how requiring strict compliance will affect particular local and regional needs, including affordable housing, attracting and retaining local businesses, and encouraging re-development of urban areas. Finally, it is important that the Board consider how the Permit's prohibitions will affect local government's ability to effectively manage local land use and planning.*

Response: a) There are many issues that require consideration in formulating and implementing regulations. Commonly, collective terms such as societal, economic, and technological considerations are used for those issues that are not the major focus of the regulation. In our evaluation of the BMPs in the WQMPs to be submitted by the permitees, factors such as those above will be considered with respect to water quality effects. b) Neither the Water Code nor federal regulations compel reliance on any particular form of economic analysis in the implementation of requirements based on the MEP performance standard; the admonition quoted from 64 Fed. Reg. 68722 & 68732 calls for flexible interpretation of MEP based on site-specific characteristics and "cost considerations as well as water quality effects…." Thus, while the regional board is advised to consider costs as a factor in determining the reasonableness or practicability of requirements, there is no state or federal mandate for a more formal analysis. c) The Permittees are required under CEQA to consider environmental issues in their land use decisions. The permit simply provides guidance on how water quality issues are to be addressed on CEQA reviews and land use planning.

107. **Comment:** *The Coalition is concerned that the Permit as written improperly infringes on local governments' land use and planning authority in direct contradiction of federal and state law. Under federal and state law, local land use and planning issues are left to the sound discretion of the local authorities. This is because these local governments are knowledgeable and sensitive to the particular needs of their unique area and population. By imposing mandatory requirements on the permitting and approval of new development and*

redevelopment projects, the Board improperly infringes on local governments' land use and planning authority.

Response: The permittees are required under CEQA to consider environmental issues in their land use decisions. The permit simply provides guidance on how water quality issues are to be addressed on CEQA reviews and land use planning as well as how they may comply with environmental requirements in the exercise of their land use authority. This in no way infringes upon the local land use authority. Please also see our response to Comment 28.

108. **Comment:** *These mandatory requirements will make the development of new projects in Riverside County much more expensive. It is possible that many redevelopment projects will be too cost prohibitive under the Permit thereby inhibiting the economic growth of the region. Instead of containing mandatory requirements, the Permit should simply provide guidance to permittees as they approve and permit development projects. The Coalition requests that the Board revise these requirements so that they are made consistent with state and federal law*.

Response: SUSMP-type requirements for new development and significant redevelopment have been deemed as MEP by the State Board and are consistent with state and federal laws (See State Board Order WQ 2000-11). These requirements are consistently being included in the MS4 permits issued throughout the State. Therefore, the inference that new projects in Riverside County would be more expensive than in other parts of the State due the requirements proposed in this permit is not valid.

109. **Comment:** *The Coalition supports the Construction Industry Coalition on Water Quality ("CICWQ"). We support the CICWQ comment letter dated May 13, 2002, in which it is indicated that the process for making headway on a consensus for watershed projects will be time consuming due to the many factors requiring resolution. As stated by CICWQ, these factors include establishing stakeholder involvement, conducting research and/or studies, locating regional solutions, securing land rights (if necessary), designing regional facilities and establishing funding mechanisms for both capital and ongoing maintenance costs. There are management difficulties in regulating a regional watershed project that may require the establishment of a watershed authority or a joint powers agency. We also support CICWQ's suggested timeline:*

- *Permit adoption (August 2002)*
- *Establish watershed/sub-watershed management framework and stakeholders (January 2002)*
- *Conduct research and/or studies necessary for identifying regional watershed facility locations (July 2003)*
- *Secure land rights and design regional watershed facilities (January 2003)*
- *Establish stakeholder buy-in and create funding mechanisms, such as grants and maintenance districts (June 2004)*
- *Revise WQMP, with regional watershed solution included, and submit to Regional Water Board (August 2004)*

Based on the importance of using regional watershed solutions to address water quality concerns and the need for adequate time, as outlined above, we also request that the

compliance date specified in Section VII.B.1 of the Permit be changed from 12 months after the Order's adoption to 24 months after the Orders adoption.

Response: Please refer to the revised timeframes. These will be adjusted to be consistent with the lead-time included in the MS4 permit for San Bernardino and Orange Counties. The current language in the draft permit provides flexibility to the Permittees for regional treatment systems or to use the specified numeric sizing criteria.

110. **Comment:** *The Coalition recognizes that the stakes are very high with regard to the development of a Permit that will improve water quality. Yet, it is important to consider all quality of life issues when adopting this Permit. The absence of any meaningful consideration of these issues, in an effort to improve water quality at any cost, will have an immediate and significant impact on affordable housing, jobs, wages and livability. The Coalition is very supportive of efforts to develop new ways of improving water quality. However, the Coalition also sympathizes with the burden that the cost of implementing this Permit will place on the cities and the unintended negative economic impact that this Permit will likely have on Riverside County. As always, the Coalition is interested in working together with the Board to create a Permit that is practicable, achievable and will result in improved water quality. Our Coalition continues to be concerned about the economic livelihoods of our working families, diminishing new home production, increasing housing costs, and jeopardizing our regional economic strength. We are confident that, by working together, the Coalition can assist you in achieving balance that will greatly improve water quality while also meeting our other regional obligations and needs.*

Response: We agree that in a comprehensive planning process, all factors must be considered and the projects should be designed to minimize any adverse environmental impacts.

J. Response to Megan Fischer – San Diego Regional Water Quality Control Board (April 17, 2002)

111. **Comment:** *In the toxicity monitoring section, it says that "freshwater species" will be used to determine toxicity. However, the sea urchin is a marine species. It is still helpful to do the sea urchin test with fresh water, because that species is sensitive to metals, and still provides an important indicator. I would just suggest changing "freshwater" to "aquatic".*

Response: Please refer to the revised language.

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II. RESPONSE TO COMMENTS ON THE SECOND DRAFT (August 23, 2002)

Only NRDC provided written comments on the second draft. Most of the NRDC comments are repetitions of its previous comments (see our response to comments 37 through 82 in Section I, above). The following comments are different or need additional clarification:

112. **Comment:** *We are pleased to see that Staff have improved the Draft Permit by modifying certain sections as requested in our May comments, including TMDL incorporation, findings regarding the DAMP and characterizing the permittees' state of mind and the section on co-permittees' responsibilities. As a general matter, however, in the majority of instances in which Defend the Bay and NRDC commented about provisions of the Permit, Staff either failed to modify or respond in an adequate fashion. Additionally, we are concerned that many of the compliance deadlines have been extended beyond the time frame in comparable permits in neighboring counties. (Compare Education and Outreach in Draft Permit to Education and Outreach in San Bernardino Permit; 20 months for development of the Water Quality Management Plan). Please explain why deadlines in the Draft Permit are longer than deadlines in San Bernardino Permit. Further, as discussed below, we are concerned about new limitations and languages that have been implemented throughout this draft of the Permit without proper justification.*

Response: The tables below compare the Riverside County MS4 permit requirements and time lines with the other major MS4 permits in Southern California. As the tables indicate, in some cases additional time has been provided to develop and implement certain programs. This is due to several factors. The timelines recognize the budget cycles of the permittees and more importantly third party agreements that the permittees have in place for certain programs (e.g., municipal inspection programs) required under the draft order. The reference to "new languages and limitations" is not very clear. We assume that this comment refers mostly to the changes in the inspection program. Most of the changes in Section IX, Municipal Inspection Program, are in recognition of the existing inspection program.

The following is a comparison of the major components of the Riverside County MS4 Permit (Santa Ana Region, draft), San Bernardino County MS4 Permit (Santa Ana Region), North Orange County MS4 Permit (Santa Ana Region), South Orange County MS4 Permit (San Diego Region) and Los Angeles MS4 Permit (Los Angeles Region). Once again, we want to point out that this is not a word-by-word comparison of all the requirements; only the core requirements of the permit are included in this comparison.

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A. DISCHARGE PROHIBITIONS:

	Permit Requirements	
	Prohibits non-storm water	Lists exempted non-storm water discharges
Riverside County	Yes	Yes, includes non-commercial vehicle washing
San Bernardino County	Yes	Yes, includes non-commercial vehicle washing
Orange County	Yes	Yes, includes non-commercial vehicle washing
San Diego	Yes	Yes, includes individual car washing
Los Angeles	Yes	Yes, includes non-commercial vehicle washing

The requirements in this section seem to be similar except that San Diego does not include charity car washes in its list of exempted discharges.

B. RECEIVING WATER LIMITATIONS:

	Permit Requirement
	Receiving Water Limitation as per State Board Order No. 99-05
Riverside County	Yes
San Bernardino County	Yes
Orange County	Yes
San Diego	Yes
Los Angeles	Yes

The receiving water limitations language in all five permits is consistent with State Board Order No. 99-05. However, some of the redundancy in the time frames for reporting requirements have been eliminated in the Riverside MS4 permit.

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C. LEGAL AUTHORITY

	Permit Requirements		
	Establish Legal Authority to prohibit illicit discharges and connections	Establish legal authority to prohibit other types of discharges	Establish legal authority to impose monetary penalties
Riverside County	Yes	Within 18 months of adoption.	Yes
San Bernardino County	Yes	November 15, 2003 (18.9 months from adoption)	Yes
Orange County	Yes	By July 1, 2003 (18.2 months from adoption)	Yes
San Diego	Yes	Within 1 year of adoption	No
Los Angeles	Yes	By Nov 1, 2002 (11 months of adoption)	No

All five permits give a list of specific types of discharges the permittee shall have authority to prohibit/enforce against. The list is generally the same with few variations. There are slight variations in the schedules to establish this authority. Only the Santa Ana permits require the permittees to have authority for such sanctions as monetary penalties, non-monetary penalties, bonding requirements, and/or permit denials, revocations, stays etc. The other permits have general statements such as "obtain all necessary legal authority to comply with this Order through adoption of ordinance and municipal code modifications".

D. RESTAURANT INSPECTION PROGRAM

	Permit Requirement
	Develop a restaurant inspection program
Riverside County	Within 12 months of adoption.
San Bernardino County	By March 1, 2003 (11 months from adoption)
Orange County	By July 1, 2002 (18 months of adoption)
San Diego	No specific requirement
Los Angeles	First inspection by 8/1/04 (32 months from adoption); minimum two inspections/permit term

The LA permit lists in detail the requirements for the restaurant inspection program. With the first inspection to be conducted no later than 8/1/04 and each facility to be inspected twice during the five year term of the permit.

The Santa Ana MS4 permits identify minimum factors that are to be included in the restaurant inspection program. Deadlines for development of the inspection program are from 11 to 18 months of adoption.

The San Diego permit has no specific requirements.

E. LITTER AND TRASH CONTROL

	Permit Requirements	
	Review litter and trash control ordinances and implement appropriate controls	Review Debris control measures and determine need for any additional controls
Riverside County	Within 18 Mo. of adoption	Within 18 Mo. of adoption, also, establish a system to record visual observation information regarding the materials collected from the MS4s.
San Bernardino County	July 1, 2003 (15 months of adoption)	July 1, 2003 (15 months from adoption)
Orange County	By 7/1/03 (18 months from adoption)	By 7/1/03 (18 months from adoption)
San Diego	No specific requirement; part of public education	No specific requirement; part of public education
Los Angeles	No specific requirement; default requirements for trash TMDL	Only a requirement to establish legal authority to prohibit such discharges

Santa Ana permits require permittees to characterize trash, determine its source(s) and develop and implement appropriate BMPs to control trash in urban runoff. The San Diego permit includes language in the Municipal Maintenance section of the permit to inspect storm drains and remove accumulated waste (e.g. sediment, trash, debris and other pollutants) on an as needed basis. The Los Angeles permit defaults to trash TMDL requirements.

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F. MUNICIPAL SOURCE IDENTIFICATION AND INSPECTIONS – CONSTRUCTION

	Permit Requirements	
	Develop an inventory of construction sites, prioritize the sites and conduct inspections.	Provide training to municipal inspectors
Riverside County	Permittees to develop Inventory within 12 mo. of adoption. Establish inspection priorities for sites, where high = sites over 50 ac., over 1 ac that are tributary to 303(d) listed waters, or sites within 200 ft of an impaired waterbody. Inspection intervals year round include: High priority sites: once each two weeks, medium priority sites: once each Mo., low priority sites: once during wet season (10/1 – 5/31).	Inspectors must be trained within 12 Mo., and annually by Oct. 1 thereafter.
San Bernardino County	Develop inventory by January 31, 2003. Establish inspection priorities for sites, where high = sites over 50 ac., over 5 ac that are tributary to 303(d) listed waters, or sites within 500 ft of an impaired waterbody. Inspection intervals during wet season (10/1 – 5/31**)** include: High priority sites: once a month, medium priority sites: twice during the wet season, low priority sites: once during wet season. Dry season inspections: all sites as needed.	December 31, 2002 and on annual basis thereafter.
Orange County	Permittee to develop Inventory by October 15, 2002. Establish inspection priorities for sites, where high = sites over 50 ac., over 5 ac that are tributary to 303(d) listed waters, or sites within 500 ft of an ASBS. Inspection intervals during wet season (10/1 – 4/30**)** include: High priority sites: once a month, medium priority sites: twice during the wet season, low priority sites: once during wet season. Dry season inspections: all sites as needed.	Inspectors must be trained by October 15, 2002, and annually thereafter.
San Diego	Co-permittees are to include in the Jurisdictional URMP: Prioritized inventory of all construction sites, plan inspection frequencies and methods of inspections	No specific inspector training requirements.
Los Angeles	Develop an inventory of construction sites by requiring the submittal of a SWPPP prior to issuing a grading permit for the site. Maintain inventory by tracking grading permits.	Train inspectors by August 1, 2002 and annually thereafter. For Permittees with a population of 250,000 or more, training deadline is February 3, 2003.

G. MUNICIPAL SOURCE IDENTIFICATION & INSPECTIONS –INDUSTRIAL FACILITIES

	Permit Requirements	
	Develop an inventory of industrial facilities and prioritize the list	Inspect industrial facilities
Riverside County	Within eighteen (18) months of Order's adoption.	Unless inspected more frequently pursuant to the existing programs, those industrial facilities given a high priority are to be inspected at least once a year, those industrial facilities given a medium priority are to be inspected at least once biannually, and those industrial facilities given a low priority are to be inspected at least once during the term of this Order.
San Bernardino County	All sites with business permits or other authorization by Permittees within 18 Mo. and updated on an annual basis, thereafter.	High priority sites must have the initial inspection and reported in annual report. All high priority sites are required to be inspected annually, medium sites-at least once every two years, and low priority sites-once per permit cycle.
Orange County	All sites with business permits or other identifiable licensing by July 1, 2003 (18 months). All remaining industrial sites to be added to database by July 1, 2005.	High priority sites must have the initial inspection performed by July 1, 2003. After July 1, 2003, all high priority sites are required to be inspected annually, medium sites-at least once every two years, and low priority sites-once per permit cycle.
San Diego	Requires a comprehensive inventory of all industrial sites.	Copermittees to submit planned inspection frequencies to the Principal Permittee in the Jurisdictional URMP document in one year.
Los Angeles	Requires a comprehensive inventory of all industrial sites. Additional criteria are given for specifically listed commercial facilities. Inventory is to be updated at least annually.	Inspections of all inventoried facilities are required to be conducted no later than August 1, 2004. Each facility shall be inspected twice during the five-year term of the Order.

H. MUNICIPAL SOURCE IDENTIFICATION & INSPECTIONS– COMMERCIAL

	Permit Requirements	
	Develop an inventory of commercial facilities/companies	Conduct inspections of all high priority sites.
Riverside County	Within 18 Mo. for initial inventory and within 24 months for specifically listed sites. Updated annually.	All high priorities sites are to be inspected at least once per year, unless a more frequent inspection program is proposed by Permittees.
San Bernardino County	By July 1, 2003 (15 months). Updated annually	All high priority sites inspected at least once by July 1, 2004.
Orange County	To be developed by July 1, 2003 (18 months). This inventory is to be updated annually.	All high priority sites to be inspected at least once by July 1, 2004.
San Diego	An inventory is to be developed and updated annually.	All high priority sites to be inspected on an “as needed” basis with subsequent follow-up actions as necessary.
Los Angeles	An inventory is to be developed and information on its “critical” sources” updated at least annually.	First inspection to be conducted by August 1, 2004.

The Los Angeles permit designates specific industries as “critical sources” in a subsection of this category. There are prescriptive requirements unique to specific kinds of industries.

The Santa Ana permits provide a list of specific industries and require the Permittees to prioritize them. Facilities are to be ranked as high, medium or low priority, based on such factors as the type, magnitude and location of the commercial activity, potential for discharge to the MS4 and history of non-storm water discharges. Within 12 months of permit adoption the Permittees are to establish inspection frequencies based upon this priority criteria.

The San Diego permit also lists specific targeted industries, but inspection frequencies are left to an “as needed” basis.

I. SEPTIC SYTEMS/PORTABLE TOILETS

	Permit Requirements	
	Determine the effect of septic system failures on storm water quality	**Review oversight program for portable toilets**
Riverside County	**Within 12 Mo. of adoption.**	**Within 12 Mo. of adoption.**
San Bernardino	**By July 1, 2003 (15 months of adoption)**	**By July 1, 2003**
Orange County	**By July 1, 2003 (18 months of adoption)**	**By July 1, 2003**
San Diego	**No specific requirements**	**No specific requirements**
Los Angeles	**No specific requirements**	**No specific requirements**

Santa Ana permits are unique in requiring each permittee whose jurisdiction has 50 or more septic tanks to identify with the appropriate governing agency a mechanism to determine the effect of septic system failures on storm water quality and a mechanism to address such failures.

J. NEW DEVELOPMENTS - PLANNING PROGRAMS

	Permit Requirements	
	Review CEQA process to incorporate potential storm water quality impacts and mitigation.	Review General Plan amendment process to consider storm water impacts during planning process
Riverside County	Within 12 Mo. of adoption.	Within 12 Mo. of adoption.
San Bernardino County	By February 15, 2003 (13 months of adoption)	By February 15, 2003 with CEQA review. (13 months of adoption)
Orange County	By December 19, 2002 (11 months of adoption)	By December 19, 2002 with CEQA review (11 months of adoption)
San Diego	***To the extent feasible, revise environmental review process (no timelines included)***	Storm water education program needed for Planners, Elected Officials, Developers, etc. (no timelines)
Los Angeles	Yes, immediately	Yes, to begin no later than August 1, 2002 and to be conducted at least annually thereafter.

K. NEW DEVELOPMENTS - STANDARD URBAN STORM WATER MITIGATION PLANS (SUSMP) AND WATER QUALITY MANAGEMENT PLANS (WQMP)

	Permit Requirements		
	Develop and implement a WQMP (SUSMP) by a specified date.	Minimize the effects of urbanization on site hydrology, urban runoff flow rates or velocities and pollutant loads.	Requires pollutant reductions in post-development runoff
Riverside County	Yes, submit WQMP to the Executive Officer within 20 Mo. of adoption.	Yes	**Yes**
San Bernardino County	Yes, submit WQMP to the Executive Officer by January 1, 2004. (20 months of adoption)	Yes	Yes
Orange County	Yes, submit WQMP to the Executive Officer by March 1, 2003. (15 months of adoption)	Yes	Yes
San Diego	Yes, Collective model SUSMP within 365 days; local SUSMPs to be developed 6 months later	Yes	Not specifically included.
Los Angeles	Yes, amend codes and ordinances to give legal effect to SUSMP changes by August 2, 2002, with requirements to take effect by September 2, 2002 (9 months of adoption)	Yes	Yes, through post-construction treatment control BMPs

L. MANAGEMENT PLANS

	Permit Requirements			
	Implement Existing DAMP or SQMP	**Amend DAMP/SQMP**	**Develop local URMP/SQMP**	**Establish a Watershed Management Committee**
Riverside County	**Yes**	**Amend DAMP by Jan 1, 2005, or within 6 Mo. of approval of WQMP, and as needed or if directed by the Executive Officer**	**No specific requirements for local management plans**	**No specific requirement**
San Bernardino	**Yes**	**Amend MSWMP as needed or as directed by the Executive Officer**	**No specific requirement**	**No specific requirement**
Orange County	**Yes**	**Amend DAMP if needed or if directed by the Executive Officer**	**No specific requirements**	**Not required**
San Diego	**Yes**	**None for DAMP; new URMP required**	**Develop URMP within 365 days of adoption**	**Not required**
Los Angeles	**Yes**	**Revise if directed by the Executive Officer**	**Develop a local SQMP by 8/1/02**	**Required**

M. NEW DEVELOPMENTS – GENERAL PLAN

	Permit Requirements		
	Review or update its General Plans to include watershed and storm water quality and quantity management considerations for:		
	Land Use	**Housing**	**Conservation**
Riverside County	Yes	Yes	No
San Bernardino County	Yes	Yes	Yes
Orange County	Yes	Yes	Yes
San Diego	Yes	Yes	Yes
Los Angeles	Yes	Yes	Yes

N. NEW DEVELOPMENTS – REGIONAL SOLUTIONS

	Permit Requirement
	Develop and implement regional solutions
Riverside	Encourage regional solutions
San Bernardino	Encourage regional solutions
Orange County	Recognizes and encourages regional solutions
San Diego	No specific requirements
Los Angeles	No specific requirements; allows mitigation payment for regional systems

O. PUBLIC EDUCATION

	Permit Requirements		
	Develop catch-basin model stenciling procedures	Establish a hotline for reporting spills, leaks, illegal discharges	Conduct a storm water pollution public awareness assessment survey
Riverside County	Already in place, any revisions within 12 Mo. of adoption.	Already in place, any revisions within 12 Mo. of adoption.	Within 18 Mo. of adoption.
San Bernardino County	Already in place	Already in place, any revisions by September 15, 2002	By October 30, 2002
Orange County	Stenciling mostly complete	Already in place	To be completed by 7/1/02
San Diego	Not specifically stated, may be part of "preventative maintenance"	Not specifically mentioned	No requirement
Los Angeles	To be completed by 2/4/04	Encouraged	Yes – to be completed by 5/1/02

Los Angeles Permit pays particular attention to the public outreach portion of the Program. It has specific requirements targeted to an audience of diverse cultural backgrounds. For the Los Angeles permit, the principal permittee is to ensure a minimum of 35 million impressions/yr. The Riverside County and San Bernardino County permits require 5 million impressions/yr. through use of local print, radio and television. The Orange County permit requires 10 million impressions/yr. The Santa Ana permittees are required to distribute BMP brochures, or fact sheets for restaurants, automotive service centers, gasoline service stations and other similar facilities. The Riverside permit is unique in requiring BMP guidance for household use of pesticides, herbicides and fertilizers.

The San Diego permit identifies specific minimum criteria and gives an extensive listing of applicable topics to be used in the Public Education Program for general and specifically targeted audiences. No other requirements are explained in this section.

P. MUNICIPAL FACILITIES/ACTIVITIES – STREET SWEEPING

	Permit Requirement
	Conduct Street Sweeping at a specified frequency
Riverside County	Within 12 Mo. of adoption the Permittee shall develop and distribute model maintenance procedures to include street sweeping. To be reported in 2004-2005 annual report
San Bernardino County	Permittees will sweep street/roads in residential zones at least twice each permit year (ROWD) with at least one sweeping during pre-rainy season. Streets/roads in commercial, industrial and institutional zones at least once each quarter of the year. The goal is to sweep 100 % with a performance criteria of 80%.
Orange County	By July 2002 permittee to develop and distribute model maintenance procedures to include street sweeping. To be reported in 2001-2002 annual report
San Diego	No specific requirement.
Los Angeles	Priority A-areas generating high volumes of trash or debris – 2x per month; Priority B-areas generating moderate quantities - at least once per month; Priority C- areas generating low volumes – swept as necessary

Q. MUNICIPAL FACILITIES/ACTIVITIES – CATCH BASIN INSPECTIONS AND MAINTENANCE

	Permit Requirements	
	Review public agency activities to ensure receiving water quality protection	Conduct regular inspections, maintenance, and cleaning of catch basins and storm water conveyances
Riverside County	Permittees shall annually review their Municipal Facilities Strategy.	If by July 1, 2004, Permittees have not developed or EO has not approved a model maintenance procedure and inspection protocols, Permittees shall inspect and maintain at least 80% of the drainage facilities annually and 100% within a two year period.
San Bernardino County	Permittees shall adopt performance goals and implement commitments in ROWD. Annual reporting of municipal activities required.	Permittees will inspect all of their inlets, open channels, and basins at least once during each year and maintain 80% of its drainage facilities annually, with 100% in a two-year period. All facilities shall be cleaned if sediment/debris storage volume is 25% or more full.
Orange County	Environmental Performance Report completed; annual review required by July 1 of each year	By July 1, 2002 develop model maintenance: procedures, inspection protocols, inspect and maintain at least 80% of the drainage facilities annually and 100% within a two year period. Additional programs by July 1, 2004.
San Diego	No specific requirements.	Requires a maintenance schedule for all structural BMPs. Additional cleaning as necessary between 10/1 and 4/30 each year.
Los Angeles	SWPPP to be implemented by each Permittee at public vehicle maintenance facilities, material storage facilities and corporate yards	Cleaning intervals for priority A rated drains – 3x per wet season, priority B rated – once during wet season and priority C rated – once per year.

R. TMDL IMPLEMENTATION

	Permit Requirement
	Implement TMDLs per the implementation plan
Riverside County	No TMDLs in place; Permittees shall modify the DAMP if allocation developed and approved pursuant to the TMDL process for impaired water bodies.
San Bernardino County	No TMDLs in place; Permittees shall modify the MSWMP if allocation developed and approved pursuant to the TMDL process for impaired water bodies.
Orange County	Yes
San Diego	No
Los Angeles	No (includes default requirements)

Orange County Permit lists specific target load allocations for nutrients and sediments in urban runoff. Permittees are to revise the DAMP to include implementation measures and studies related to the TMDL for fecal coliform in Newport Bay. The Santa Ana permits have re-opener clauses for TMDL.

S. MONITORING

	Permit Requirements		
	Continue Current monitoring program	Develop new monitoring program by	Requires dry/ wet weather and receiving water monitoring
Riverside County	Yes	Consolidated monitoring program within 12 months of adoption.	Yes
San Bernardino County	Yes	Integrated watershed monitoring program by July 1, 2003	Yes
Orange County	Yes	July 1, 2003	Yes
San Diego	Yes	Revise annually	Yes
Los Angeles	Yes	Assessed annually in 10/15 reporting	Yes

SUMMARY:

A comparison of the major components of the five permits (the San Bernardino County (Santa Ana), Orange County (Santa Ana), Los Angeles, and San Diego permits indicate that the core requirements of all the permits are very similar and the differences are not significant. There are regional and programmatic differences in these permits. The San Diego permit is more prescriptive compared to the other three. The Los Angeles permit has identified critical sources of pollutants and specified inspection frequencies for those. The Riverside, San Bernardino County and Orange County permits provide opportunities for the Permittees to prioritize the pollutant sources and conduct inspections based on this priority.

113. **Comment:** *Finding 16 has been modified with the additional statement, "However, it is recognized that storm flows from non-urbanized areas such as 'National Forest,' 'State Park,' 'Wilderness,' and "Agriculture' as shown on Appendix 1 naturally exhibit high levels of suspended solids due to climate, hydrology, geology, and geography." (Draft Permit at 5, Finding 16). It is unclear what the purpose of this statement is and how it explains the impact of storm water runoff. Ultimately, this statement should be deleted from the Permit because there is no explanation of its purpose, the conclusion it makes is unsupported, it is not included in the San Bernardino County, Orange County, or Los Angeles County permits, and it is not necessary.*

Response: This sentence has been inserted after statements regarding sediments and suspended solids The sentence is a factual statement that acknowledges a natural phenomenon with regard to the production of suspended solids and applies to at least 40% of the land area of the Santa Ana River Watershed within Riverside County (the "Watershed") [See Finding 19; 753.9 square miles (58.3% of the area within the Watershed) is "Vacant" or "Open Space," which includes "National Forest" (310.7 square miles (24.0%) within the Watershed is owned by the federal government), "State Parks" (43.0 square miles (3.3%) within the Watershed is owned by the State) "Wilderness," and 161.3 square miles within the Watershed (12.5%) is used for "Agriculture"]. The recognition of this natural occurrence is needed if one is to accurately understand the source of the constituents of storm water runoff from the Permit Area and meaningfully address water quality issues. The finding is based on "Climate Change and the Episodicity of Sediment Flux in Small California Rivers," D.I. Inman & S.A. Jenkins Journal of Geology, Volume 107, pp. 251-270, 1999. Such a finding would not be appropriate for inclusion in the permits issued for either Orange or Los Angeles Counties because none of the permits areas within either county contain such high percentages of "National Forest," "State Parks," "Wilderness," and "Agriculture." The number of square miles identified as "Vacant," "Open Space," and "Agriculture" totals within the Watershed 915.2 and is more than twice the total number of square miles within the permit area for Orange County (428.3 square miles).

114. **Comment:** ***Finding Regarding Previous Monitoring and Reporting****. Although some changes have been made to the finding discussing previous monitoring and reporting, including discussion of the Consolidated Program for Water Quality Monitoring ("CMP"), the Draft Permit contains only general discussion regarding the data results from this monitoring. (Draft Permit at 10, Finding 33). The Permit should include the monitoring data from CMP as well as any conclusions drawn from the data, similar to the discussion in the San Bernardino permit.*

Response: In addition to Finding 33, there are discussions regarding the monitoring results in Findings 34 and 35. These findings only include a summary of the information contained in various documents submitted by the permittees. The annual reports provide a statistical summary of the analyses performed on water samples collected from dry weather outfalls, wet weather outfalls, and receiving water locations. In addition, the DAMP (1993), Table 2-1 provides a listing of the pollutants of concern for Riverside County.

115. **Comment:** *The Draft Permit has been modified to allow a discharge exemption for discharges covered by "waivers issued by the Regional or State Board" instead of "written clearances" as provided in the initial draft. (Draft Permit at 19). However, the justification for the waivers is not stated. Further, it is unclear how a waiver is granted or what the requirements are to receive a waiver. Thus, the waiver provision should be deleted. Further, as discussed in our May comments, several discharge limitation/prohibitions provisions that are contained in the San Bernardino permit (and other permits throughout the region) have been omitted from the Draft Permit. These provisions should be included in the Riverside Permit. The provisions are:*

- *Non-storm water discharges from permittees' activities into waters of the U.S. are prohibited unless the non-storm water discharges are permitted by an NPDES permit or are included in paragraph 3 of this section.*
- *Discharges from the MS4 shall be in compliance with the discharge prohibitions contained in the Basin Plan.*
- *Discharges from the MS4s of storm water, or non-storm water, for which a permittee is responsible, shall not cause or contribute to a condition of nuisance as that term is defined in Section 13050 of the Water Code.*

Response: The "waivers" refer to the waivers issued under Section 13369 of the Water Code. On September 6, 2002, the Board adopted Resolution No. R8-2002-0044, waiving waste discharge requirements for specific types of discharges in accordance with Section 13369. The Executive Officer issues written clearances for discharges satisfying the conditions specified in Resolution No. R8-2002-0044.

The provisions indicated in the comments are included in other sections of the permit. Please refer to the following sections of the draft permit for these provisions: Section II.C., Section II.H, and Section II. I., respectively, for each of the three bulleted items above.

116. **Comment:** ***Permit Section III, Receiving Water Limitations.*** *Although paragraph A of the receiving water limitations section has been modified, our requested modification has not been made. As stated in our May comments, paragraph A should be modified to include the following underlined language: "[d]ischarges from the MS4 shall not cause or contribute to exceedances of receiving water quality standards (designated beneficial uses and water quality objectives contained in the Basin Plan and attachments thereto) for surface waters or ground waters." Additionally, the language has been changed to "surface waters or ground waters in the Permit Area." The basis and purpose of this new limitation has not been stated, and the change is entirely unjustified. As an initial matter, this limitation is inconsistent with other permits in the state. Moreover, it is illegal as it is inconsistent with the State Board's direction in its orders addressing the appropriate receiving water limitations language for permits issued in the State. Finally, this limitation is not fully protective of California's waters and would appear to ignore entirely known impacts to the coastal waters and the ocean caused by urban runoff in Riverside County. Therefore, we believe this language is inappropriate and improper, as well as undermines the purpose of the Permit and the Clean Water Act.*

Response: We feel that the clause " and amendments thereto" is more appropriate than the underlined language; attachments to the Basin Plan or those incorporated by reference are considered a part of the Basin Plan. Therefore, we have added, "and amendments thereto".

In reference to the addition of "surface waters or ground waters in the Permit area, please see revised language. Underlined clause deleted as suggested.

117. **Comment:** ***Permit Section VI, Illicit Connections/ Illegal Discharges****. Despite some modifications to the Permit, the Draft Permit still does not contain any overarching performance standard directing specific, affirmative actions to eliminate illegal and illicit connections... Importantly, in this draft of the Permit, Staff has deleted the requirement from the initial draft that required the Permittees to "maintain a database that identifies both permitted and status of unpermitted connections resulting from routine inspections and dry weather monitoring." (March 22, 2002 Draft Permit at 21). What is the basis for deleting the database requirement? The database requirement is needed for prohibiting illicit connections and illegal discharges. Thus, the database requirement should be included in the Permit.*

Response: The Permittees completed their reconnaissance survey and eliminated all illicit connections. As stated in Finding 21, there are a total of 288.3 miles of underground storm drains within the Permit Area and 154.3 miles of open channels. Finding 41 states that the inspection of underground storm drains revealed only one illicit connection. Open channels are inspected by the Permittees for illicit connections as an element of routine maintenance and their records reveal that annually, on average, 5 or less illicit connections are discovered requiring the issuance of a cease and desist letter. This number does not warrant the establishment of a database. . If any illegal discharges or illicit connections are detected, the Permittees are required to eliminate them within 60 days. They are also required to report these in the Annual Report.

118. **Comment:** ***Permit Section VIII, New Development****. We are pleased to see the additional discussion of structural best management practices in this draft of the Permit. However, this section of the Permit contains changes and new limitations without any justification, thus, we object to these changes. Some of these improper changes and limitations, among others, are:*

- *The deletion of the requirement to review the General Plan to address storm water issues as well as the requirement to review and modify the Project Approval Process (Draft Permit at 27).*
- *Requiring permittees to develop a WQMP identifying BMPs, "that are applied when considering any map or permit for which discretionary approval is sought." (Draft Permit at 29).*
- *The definition of significant redevelopment now includes "construction of impervious or compacted soil parking lots. (Draft Permit at 30).*
- *The new development categories now include "Hillside development that creates 10,000 square feet, or more, of impervious surface(s) . . . ."(Draft Permit at 30).*
- *The deletion of the filter requirement for the design of volume-based BMPs and the flow-based BMPs. (Draft Permit at 32-33).*
- *The section in waiver provisions stating, "For those portions of the Permit Area that will not result in discharge to the Receiving Waters under the conditions specified in Sub-sections B.5, above." What does this mean?*
- *The statement in the implementation section that "the obligation to install structural treatment BMPs for New Development will be satisfied if for a specific plan, multiple subdivision, or regional area, structural BMPs are constructed with the requisite capacity to serve the specific plan, multiple subdivisions, or regional area, even if certain phases of the specific plan in the subdivision do not have structural treatment BMP located within the boundaries of the particular phase, provided, however, the structural treatment BMPs are*

designed to intercept Urban Runoff prior to its reaching the Receiving Water and said BMPs meet the sizing criteria set forth in the WQMP or as specified in Sub-section B.5, above." (Draft Permit at 34). It is unclear what happens during the phases. All receiving waters must be protected during all phases of new development.

At a minimum, the justification for these and any other changes and limitations should be explained. Moreover, the deleted language should be included in this draft as it was in the initial draft of the Permit, while the limitations should be deleted as they are inconsistent with permits for neighboring counties and are unnecessary.

Response: Please note that the items indicated above have not been deleted. For each of the bulleted items above, please see the explanation below or the following sections:

- Section VIII.A.8
- Section VIII. B.
- The draft Permit defines parking lots as and area or facility for the temporary storage of motor vehicles. To encourage infiltration, where appropriate, the draft Permit clarifies that the new development requirements apply to construction of impervious surfaces. In fact some BMPs for parking lots are pervious construction or grass fields. Therefore, for new development we have modified the language to reflect this change in Section VIII.B.1.b.7: "Parking lots of 5000 square feet or more of impervious surface exposed to stormwater."
- The term impervious was added to clarify that the new development requirements are applicable to hillside developments with at least 10,000 square feet of impervious land area.
- The term filtration was removed since filtration is a treatment process and the more inclusive word "treat" is already included.
- If storm water from the project site is fully contained and there is no discharge to Receiving Waters, a waiver from the sizing criteria specified under Subsection B.5 may be granted. Clarification has been added.
- This language has been modified with the underlined words: "however, structural BMPs, are designed and implemented to intercept Urban Runoff…". A regional or sub-regional approach is acceptable as long as it meets or exceeds the design criteria in Subsection B.5.

119. **Comment:** *Permit **Section IX, Municipal Inspection Program.** Despite the modifications regarding our specific comments about the municipal inspection program, these modifications do not address our concerns. Specifically, the requirement that permittees notify the Regional Board of non-compliant facilities for construction, industrial, and commercial facilities has been deleted. Instead, the Permit now contains two different requirements and timeframes for reporting depending on whether there is an "Emergency Situation." It is unclear what constitutes an*

"Emergency Situation." Additionally, this structure leaves the timeframe for the reporting at the discretion of the permittees. Because non-compliant facilities endanger human health, this confusing language for each section should be changed back to "non-compliant facilities" as stated in the initial draft of the Permit. Thus, paragraphs A-8, B-7, and C-11 should be deleted. Additionally, the reporting requirement timeframes for non-compliant facilities should be consistent with the timeframes in the San Bernardino permit as discussed in our May comments.

Response: The term "Emergency Situation" is clearly defined in Appendix 4, Glossary; the definition is more precise and inclusive than the language contained March 22nd draft. This definition requires timely reporting with regard to "non-compliant facilities" that do in fact present an immediate danger to human health or the environment, and the time frames stated are consistent with those specified in the San Bernardino permit. The language contained in Subsections IX.A.8., IX.B.7., and IX.C.11 also recognizes that there are incidents that will not rise to an "Emergency Situation" but should be reported to Regional Board staff. This additional reporting requirement is not contained in the San Bernardino permit. Regional Board staff considers this language to clearly and better state the Permit's objectives than did the language contained in the March 22nd draft.

120. **Comment:** *In addition, as stated in our May comments, due to the particular characteristics of Riverside County, the storm water program fails to include provisions to deal with pollutants from dairies and/or other concentrated animal feeding operations ("CAFOs") in the region. This is particularly perplexing given that it is well understood that these dairy CAFOs are a major source of pollution into storm water in the region. See Santa Ana Region Basin Plan. This is specifically expressed in both the Basin Plan for the Santa Ana Region as well as the 1998 Section 303(d) list of impaired water bodies, which lists these dairies as sources of impairing pollutants. From a regulatory perspective, storm water inspections are required for industrial and commercial facilities. Storm water discharges from CAFOs are industrial discharges covered under this rubric. Indeed, these dairy CAFOs are regulated under their own Regionwide Dairy General Permit, which specifically states that it supplants the dairies' previous coverage under the statewide General Industrial Storm Water Permit. See SARWQCB Order No. 99-11, General Waste Discharge Requirements for Concentrated Animal Feeding Operations (Dairies and Related Facilities) Within the Santa Ana Region, Finding 9. Therefore, the inspection program should be revised to include requirements for inspections of concentrated animal feeding operation facilities.*

Response: As stated in Finding 11, the Regional Board acknowledges that dairy operations within both Riverside and San Bernardino counties present unique issues with regard to storm water runoff and in response to this situation has adopted Order No. 99-11 which its staff enforces. In addition Regional Board staff has formed a unit that reviews and approves engineered waste management plans for this type of facility. The Regional Board by the adoption of Order No. 99-11, has assumed regulation, inspection and enforcement responsibilities for dairies and related facilities, and as stated in Section IX, the Permittees are not to assume the responsibility of enforcing an order adopted by either the State or Regional Boards and any permits issued pursuant thereto. The relevant subsections in Section IX further state that this limitation on Permittees' enforcement responsibilities is to avoid duplication of effort and insure that consistent direction is given to owner/operator to bring the facility into compliance with the general and specific order issued by the State and Regional Boards. Regional Board staff has concluded that greater water

quality benefits can be achieved if municipal inspection resources are directed to commercial and industrial operations not regulated by Order No. 99-11.

121. **Comment:** ***Permit Section XI, Municipal Facilities Programs and Activities****…The program set forth in the Permit is not consistent with the MEP standard. In this connection, the Draft Permit fails to provide specific program requirements for:*

- *Sewage System Maintenance, Overflow, and Spill Prevention*
- *Vehicle Maintenance/Material Storage Facilities/Corporation Yard Management*
- *Landscape and Recreational Facilities Management*
- *Storm Drain Operation and Management*
- *Streets and Roads Maintenance*
- *Parking Facilities Management*
- *Public Industrial Activities Management*
- *Emergency Procedures (other than fire)*
- *Treatment Feasibility Studies*

Response: The noted program requirements are addressed in other areas of the Order, or are already being implemented by the permittees, or other programs and policies address these issues.

- Sewage System Maintenance, Overflow, and Spill Prevention will be more appropriately addressed in a separate Waste Discharge Requirements issued to the Sanitation Districts. However, Section VII of the Order requires the permittees to develop a unified sewage spill response document to address situations where sewage spills enter the MS4s. This section also addresses issues related to septic system failures.

- Vehicle Maintenance/Material Storage Facilities/Corporation Yard Management is addressed in the Municipal Facilities Strategy.
- Landscape and Recreational Facilities Management is addressed in the Municipal Facilities Strategy.
- Storm Drain Operation and Management is addressed in the DAMP.
- Streets and Roads Maintenance is addressed in the DAMP.
- Parking Facilities Management is addressed in Section IX.C.3.d.
- Public Industrial Activities Management is addressed in the DAMP.
- Emergency Procedures (other than fire); if the reference here is to municipal activities, it is covered in the Municipal Facilities Strategy.
- Treatment Feasibility Studies; there is no specific requirements for feasibility studies for treating storm water. However, there are requirements in various parts of the permit for evaluating current procedures and BMPs and to recommend more effective BMPs (e.g., see Section VI.D).

122. **Comment:** ***Permit Section XII, Municipal Construction Projects/Activities****… At a minimum, the program must require compliance with the MEP standard and all terms, conditions and requirements of the statewide general construction permit and/or the San Jacinto Watershed Storm Water Permit. Again, the program in the Draft Permit is far inferior to similar programs in other permits issued in the region.*

Response: Section XII. A of the draft permit requires compliance with the latest version of the applicable Construction Activity Permit (see Appendix 4, Glossary).

123. **Comment:** ***Monitoring and Reporting Program (Appendix 3)****… The Program requires that the permittees develop a monitoring program that contains components such as mass emissions, microbes, toxicity and land use correlation. However, there is no requirement for a basic receiving water quality monitoring component for standard constituents or bioassessment requirements. Even if these might be part of an existing program, it should be mentioned and acknowledged in the Permit's monitoring and reporting program. In addition, the requirements under each of the components that are listed are too vague and basic to provide adequate direction for the ultimate monitoring program that is developed.*

Response: Requirements for bioassessment are included in Section B.7 of Appendix 3. We think that the revised Consolidated Monitoring Plan (CMP) is the appropriate document to contain details of the integrated monitoring program. The revised CMP should identify data gaps from previous monitoring efforts and utilize data from other monitoring programs to direct the next phase of sampling and monitoring.

124. **Comment:** *The monitoring programs under the various municipal storm water permits, including Riverside, San Bernardino, northern and southern Orange, and San Diego counties, should be comparable and provide consistent data. Given this, the minimal program that is laid out in the Draft Permit should ensure that this program is at least similar to and consistent with other monitoring programs. However, the draft program does not appear to accomplish this. As just one obvious example, the San Bernardino County permit states that San Bernardino County is acting in coordination with Riverside County. (San Bernardino Permit at 63.) Yet the Draft (Riverside) Permit does not include a similar reference***.**

Response: Please see Appendix 3, Sections II.O and III.B.2. Additionally, language has been added to encourage cooperation with the neighboring counties in the development of an integrated watershed monitoring approach (See Section I.I, Appendix 3). Also see revisions to Finding 39.

125. **Comment:** *Finally, we urge the Board to consider and adopt a more comprehensive monitoring and reporting program into the Permit itself that sets forth specific requirements such as sampling locations and mass emissions stations, numbers of samples to be taken, constituents to be analyzed, bioassessment requirements, sampling frequencies, sampling methodologies, QA/QC, and TRE specifications. We refer the Board to the Monitoring and Reporting Program included in the Los Angeles Permit, attached to May 9, 2002 letter, which provides an example of a detailed and comprehensive storm water monitoring program sufficient to meet all of the goals set forth in the Permit and under the Clean Water Act. The inclusion of a comprehensive program in the Permit itself would solve most of the problems raised above and would also provide much greater direction for the permittees, ensure that the program meets all of the Permit's goals and goals of the Clean Water Act, and also ensure that an effective program is implemented in a much shorter timeframe.*

Response: Section III.B identifies the parameters mentioned; sampling locations, mass emissions stations, numbers of samples to be taken, constituents to be analyzed, bioassessment requirements, sampling frequencies, sampling

methodologies, QA/QC, and TRE specifications. More details will be included in the revised CMP.

126. **Comment:** ***Definition of MEP:*** *"We are pleased that the footnote definition of MEP has been deleted. However, the reference to MEP in Finding 8 and the long definition in the glossary remain confusing. As stated in our May comments, to avoid any further problems with this definition, we propose that the glossary definition of MEP be deleted and replaced with the definition used in the San Bernardino County Permit. This definition has been used in other area storm water permits as well, which is important for uniformity."*

Response: The proposed definition is included as one of several definitions for MEP. Since there is no formal definition for MEP, several published interpretations of the term is included here for clarity and for guidance.

127. **Comment:** *Despite the modification to the initial draft of the permit, this Draft Permit remains seriously inadequate and contains many deficiencies in comparison to other storm water permits in the region. It is difficult to understand how the Regional Board can propose to issue such a deficient Permit to tackle southern California's largest source of water pollution and one that is inconsistent with permits in neighboring counties.*

Response: Please refer to the response to comment 112. We acknowledge the wording and structure may be slightly different as well as some of the time frames in the proposed order. However, as indicated by the comparison provided in the response to comment 112, the proposed order is similar to the other four Southern California MS4 permits in the core program areas.

Item 17 (October 22, 2002)
Errata Sheet for Tentative Order No. R8-2002-0011
NPDES No. CAS618033

Waste Discharge Requirements for the Riverside County Flood Control and Water Conservation District, the County of Riverside, and the Incorporated Cities of Riverside County Within the Santa Ana Region Areawide Urban Runoff

Item No.	Location	Changes (strikeout/underline)
1	Order, Finding 18 (page 7)	"…The Permittees shall revise their Drainage Area Management Plan ("DAMP," and defined in Appendix 4, Glossary), at the direction of the Regional Board Executive Officer (the "Executive Officer"), to incorporate program implementation amendments so as to comply with Regional, "watershed" (as defined in Appendix 4, Glossary) specific requirements, and/or WLAs developed and approved pursuant to the process for the designation and implementation of TMDLs for Impaired Waterbodies. ~~This permit may be reopened to include TMDL implementation, if other Urban Runoff implementation methodologies are not effective.This permit may be reopened to include TMDL implementation, if other Urban Runoff implementation methodologies are not effective."~~
2	Order, Finding 20 (page 7)	"…The Permittees have implemented most of the programs and policies that they developed. They ~~e been and~~ must ~~-~~continue to implement an effective combination of these programs, policies, and legal authority, ~~to~~ modify and enhance such programs and policies, and other additional requirements as identified herein, to ensure that pollutant loads resulting from Urban Runoff are properly controlled and managed to the MEP."
3	Order, Finding 30 (page 9)	This Order requires the Permittees to examine the source of pollutants in Urban Runoff from those activities that the Permittees conduct, approve, regulate and/or for which they issue a license or permit. ~~The Permittees are required to ensure, to the MEP, that Urban Runoff from the MS4s do not cause or contribute to an exceedance of~~ This Order also requires the implementation of control measures to protect beneficial uses and attain "Receiving Water Quality Objectives", as defined in the Basin Plan.
4	Order, Section II.C. (page 19)	The Permittees shall continue to effectively prohibit the discharge of non-storm water ~~into~~, into their respective MS4s and to the Waters of the U. S. unless such discharge is authorized by a separate NPDES permit or specifically allowed by the following provisions. The Permittees need not prohibit the discharges identified below. If, however, any of the following discharges are identified by either a Permittee or the Executive Officer as a significant source of pollutants,

		~~coverage under the Regional Board's Order No. 98-67 (De Minimus permit) may be required.~~ coverage under an NPDES permit or waste discharge requirements may be required.
5.	Order, Section II.C. (page 19)	The Permittees shall continue to effectively prohibit the discharge of non-storm water, including those from public agency activities, into their respective MS4s and to Waters of the U. S. unless such discharge is authorized by a separate NPDES permit or specifically allowed by the following provisions.
6.	Order, Section III.D. 1. (page 22)	Upon a determination by either the Permittees or the Executive Officer that the discharges from the MS4 systems are causing or contributing to an exceedance of an applicable Water Quality Standard, the Permittees shall within two (2) working days, provide oral or e-mail notice to Regional Board staff of the location within its jurisdiction where the exceedance occurred and describe the nature of the exceedance. Following oral or e-mail notification, a written report must be submitted to the Executive Officer within ~~ten (10)~~ thirty (30) calendar days of becoming aware of the situation. The report submitted for review and approval shall, at a minimum, describe the BMPs that are currently being implemented and the additional BMPs that will be implemented to prevent or reduce those pollutants that are causing or contributing to the exceedance of the applicable water quality standards. Also, the report shall address the causes of the receiving water quality standard exceedance, and the technical and economic feasibility of those BMPs available to the Permittees to reduce or eliminate the exceedance. In addition, the report shall include a pollutant source investigation, a control plan and an implementation schedule. Alternatively, if the exceedances are due to discharges to the MS4 from activities or areas not under the jurisdiction of the Permittees, the Permittees shall provide documentation of these discharges in the subject report, consistent with Subsection D.6., below.
7.	Order, Section III.D. 3. (page 22)	~~The report required by Subsection D.1., above, shall address the causes of the receiving water quality standard exceedance, and the technical and economic feasibility of those BMPs available to the Permittees to reduce or eliminate the exceedance. Said report may be incorporated in the annual update to the DAMP, unless the Executive Officer directs, in writing, an earlier submittal. The report shall include a pollution source investigation, a control plan and an implementation schedule.~~ The Executive Officer may by written notice require modifications to the report, required by Subsection D.1., above. If required, such modifications shall be submitted within thirty (30) calendar days of receipt of said written notice.
8.	Order, Section V.A. (page 23)	The Permittees shall continue to maintain and enforce adequate legal authority to control the contribution of pollutants to the MS4s ~~by Urban Runoff~~ and enforce those authorities.
~~10.~~9	Order, Section XII.F. (page 53)	The SWPPP and the monitoring and reporting program for the construction projects shall be consistent with the requirements of the latest version of the Construction Activity Permits, as applicable for the

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<tr><td></td><td></td><td colspan="4">size and location of the site. If the site is within the San Jacinto Watershed then the terms and conditions of the San Jacinto Watershed Construction Activities Permit apply, except with respect to submittal of a fee with the NOI and the requirement for this Regional Board to review and approve the site specific SWPPP. The applicable Permitee shall review and approve the SWPPP prepared by their contractor to insure the SWPPP substantially complies with the San Jacinto Watershed Construction Activities Permit. ~~The applicable Permittee shall submit a copy of the approved SWPPP and the approval letter to this Regional Board within 10 days of approval.~~ Upon request, the applicable Permittee shall submit a copy of the approved SWPPP.</td></tr>
<tr><td>~~11.~~10.</td><td>Appendix 3, Monitoring and Reporting Program, Section I (page 2)</td><td colspan="4">Pending approval of the revised CMP, current monitoring efforts will focus on areas with elevated pollutant concentrations. The Principal Permittee, in coordination with Regional Board staff, will identify these monitoring locations within six (6) months of adoption of this Order.</td></tr>
<tr><td rowspan="2">~~12.~~11.</td><td rowspan="2">Appendix 3, Monitoring and Reporting Program, Section V (page 8)</td><td>Reference</td><td>Item</td><td>Completion</td><td>Report Due Date</td></tr>
<tr><td>III.~~E~~D.1.</td><td>Notify Regional Board if Section III.E. discharges from MS4s cause exceedance of Receiving Water Quality Objectives.</td><td>---</td><td>2 working days Oral or e-mail notice and ~~1~~30 days written from time of becoming aware of the situation.</td></tr>
<tr><td>~~10.~~12.</td><td>Appendix 3, Monitoring and Reporting Program, Section V (page 11)</td><td colspan="4">Review Municipal Facilities Strategy ~~& Evaluate Environmental Performance Program~~ and evaluate its applicability to municipal maintenance contracts, contract for field maintenance operations, and leases.</td></tr>
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